

2019  
-  
2020

# OMBUDSMAN Annual Report



2019 -2020

Floor 6  
Moposo House  
1/1/2019

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## **ACRONYMS**

AAO.....	Assistant Administration Officer
CHE.....	Council on Higher Education
DG.....	Director General
DHR.....	Director Human Resources
DPS.....	Deputy Principal Secretary
DSO.....	District Security Officer
HRM.....	Human Resources Manager
HRO.....	Human Resources Officer
LAC.....	Lesotho Agricultural College
LEPSSA.....	Lesotho Public Servants Staff Association
LNDC.....	Lesotho National Development Corporation
MAFS.....	Ministry of Agriculture and Food Security
MCC.....	Maseru City Council
MPS.....	Ministry of the Public Service
NMDS.....	National Manpower Developmental Secretariat
NSS.....	National Security Services
PIO.....	Principal Investigations Officer
PPAD.....	Procurement Policy Advisory Division
PS.....	Principal Secretary
PSC.....	Public Service Commission
RSO.....	Regional Security Officer
WASCO.....	Water and Sewage Company

## **EXECUTIVE SUMMARY**

### **Statistical analysis of complaints**

In the reporting year, the complaints received were two hundred and one (201), of which one hundred and thirty-three (133) were sustained. That was an increase of 21.1% from the previous year (2018/2019), which saw the receipt of one hundred and eighty-five (185) complaints, one hundred and thirty-three (133) of which were sustained. In 2019/2020 there was an increase of 8.6% of the sustained cases.

60% of the cases investigated in 2019/2020 were cases which were brought forth into 2019/2020 from the previous years. This was a clear indication that the investigation was inundated with backlog, the cause of which was non-cooperation or delay in responding to the Ombudsman's inquiries by responding ministries or agencies.

One other cause of delay in resolution of complaints was frequent rotation or re-shuffle of chief accounting officers in ministries/ agencies. Every time there had been a movement in such positions it meant that in some cases there might be a change of thinking or addressing the complaints, or sometimes the Ombudsman had to start the investigations afresh as the incoming officer would be having a different opinion from his/her predecessor.

Another cause of delay was that some agencies, even if they admitted liability, took a long time to redress the matter, even if it was just a matter of effecting payment.

Although the Ombudsman Act provided for the Ombudsman to submit a special report to parliament where agencies/ ministries refused or failed to comply with his recommendations within the period he had specified, history has it that many cases were referred to Parliament in that manner but that marked the end of them as Parliament took forever to come to the Ombudsman's rescue and there would be no update on progress towards resolution by Parliament, while on the other side the cases remained open, adding to the backlog.

As the analysis has shown that in the reporting period, on average each of the seven (7) investigators handled an average of fifty-eight (58) cases, which she/he was expected to investigate, make follow-ups and reminders where agencies did not respond and to hold meetings where necessary. On top of that, the investigators had other activities to perform, such as the outreach programmes and inspections. This means that complaints could not be resolved as quickly as one would wish.

### **Selected cases**

The section is made of selected complaints that were received and resolved in the same year. There were some complaints which were brought forward from the previous years and were resolved in the reporting year.

The cases were selected just to highlight the types of complaints that were mostly handled by the Ombudsman, challenges often encountered and how some were addressed.

It can be seen from the cases that some took a very long time to resolve, mainly because of attitude of high-ranking officials in the responding ministries. An example of such cases is a case of Mr. K.E.M. against the Ministry of Tourism.

Some cases were not that complicated yet the officers in the responding ministries lacked interest to work on them, or they were reluctant to consult other officers where they did not have adequate information. That is why such cases were ultimately resolved after the Ombudsman's intervention.

### **Budget**

The Office was allocated eight million, six hundred and seventy-two thousand and thirteen Maloti (M8,672,013) for the 2019/2020 fiscal year. Actual expenditure totaled eight million, four hundred and thirty-five thousand, eight hundred and fifty-six Maloti ninety-two Lisente (M8,435,856.92), which was 97.28% of total funds. An amount of two hundred and thirty-six thousand, one hundred and fifty-six Maloti eight Lisente (M236,136.08) was not spent. This was only 2.72%.

The variance came as a result of suspension of international travel as a result of Covid-19 pandemic. The international trips that had been planned for the Ombudsman, did not take place. The Ombudsman did not attend International Ombudsman Institute (IOI) conference, which was to be held in Ireland and another trip to the African Ombudsman and Mediators Association ( AOMA) to a country that was to be announced.

Another factor that added to the variance was in the vote of Personal Emoluments, which came about because of the following reasons;

- (i) The Principal Investigations Officer retired in August 2019- giving a balance of seven (7) months of unpaid salaries.
- (ii) The Driver also retired in October of the same year leaving a balance of at least one (1) month salary. Another Driver also passed on in July 2019. These posts remained unfilled until the 3<sup>rd</sup> December the same year when two (2) drivers were recruited to fill those vacancies.
- (iii) The Executive Secretary retired in February 2020 thus leaving a balance of one (1) month salary.

### **Outreach Programmes**

To create awareness, the Office of the Ombudsman embarked on a number of strategies to make the Office known to the public in the year 2019/20. This included visits to nine (9) districts of Lesotho in selected villages and institutions, to address the public in public gatherings, on the services offered by the Office. The Office also conducted complaints intake clinics which were housed at the district administrators' offices where people brought their complaints.

The Office in this reporting year made visits to thirty (30) Institutions and villages in all the districts except Mokhotlong. This was a huge success unlike in the previous year (2018/2019), in which there were no activities related to Information dissemination carried out. The complaint intake clinics were a success because many people lodged their complaints with the Office, increasing the number of cases received in the reporting year.

## **Movement of staff**

Each year some of the staff members leave the Office, either going for retirement or being transferred to other ministries. This poses a great challenge to the Office of the Ombudsman when it comes to the filling of vacant positions. The filling of positions tends to take a long time which results in some inefficiencies in the carrying out of the day to day work of the Office, because of the long government procedures which must be followed before a vacancy could be filled. This would not have been a challenge if the Ombudsman could hire his own staff, as the vacancies would be filled immediately.

## **Environment**

The Office of the Ombudsman visited different areas where there were environmental concerns. Such concerns were prompted by different reasons, for example in Berea (Malubalube) dumping site, two (2) children from the nearby villages lost their lives after eating toxic food from the dumping site. In Maputsoe, the Ombudsman had made recommendations in 2005 that the dumping site was a very serious health hazard to the children in the nearby school and that it must be closed and relocated to a suitable and proper area. On the 11<sup>th</sup> of September 2019 the Ombudsman embarked on a compliance inspection in Maputsoe in that regard. It was discovered that the 2005 recommendations had not been complied with, as a result the Ombudsman advised the Town Clerk to comply with those recommendations.

In Berea, the recommendations were made as discussed under the heading- Inspections as reported herein. I would like to emphasize that the above inspections were conducted even though the staff of the Ombudsman had no proper training in the field of environment, hence the focus was on cleanliness only.

## **MAJOR CHALLENGES**

### **Centralized nature of the Office**

It was almost twenty-seven (27) years since the Office was established, but to date the office is still centralized here in Maseru. All efforts to decentralize it had been in vain due to financial constraints. For a long time, the Ombudsman has been trying to establish regional offices, one in Leribe to cater for the northern districts and another in Mochale's Hoek for the districts in the south, but his efforts did not bear any fruits.

The centralized nature of the office is the major cause for inaccessibility of the office to most of the people in rural areas. Even though the Office tried to meet the communities halfway by conducting outreach programs, such efforts were not enough because they were done only once a year. So, twenty-seven (27) years after the establishment of the office, it remains inaccessible to the majority of the people, who need the services offered by the Office of the Ombudsman.

### **Shortage of funds**

This problem had been experienced since the Office stopped receiving funding from the donor agencies, which used to fund office activities like information dissemination, training of office staff and other activities related to complaints resolution.

In this reporting year the Office had planned to embark on rigorous educational campaigns on services offered by the office. The areas targeted had been mostly rural areas. Nine (9) districts except Mochotlong had been visited for a week, where people were educated about the existence of the office and its functions. This meant that the office did not manage to reach its target in this respect.

### **Office Accommodation**

The office in 2004/2005 secured a site whereat it was planning to erect its own building which would be planned and constructed in a way that would



be conducive and accessible to all its clientele, but due to financial constraints, this plan has not materialized.

## **Training**

The Office of the Ombudsman recruited some new staff members in the year 2019/20, including the arrival of the new Ombudsman. However, as a result of budgetary constraints, these officers had not been enrolled for training in Ombudsman ship concept.

## **Lack of autonomy**

The Lesotho Ombudsman's office being a member of IOI and AOMA, the Ombudsman had learnt through interaction with his counterparts that for an office to be effective it had to be autonomous, particularly in its finances, recruitment of staff and independent when carrying out its mandate.

## **-Financial Independence**

Other Ombudsman Institutions in various jurisdictions are allocated budgets by their various Parliaments. Once budgets were allocated, funds were deposited into their respective bank accounts. This meant that these offices are given latitude to plan and manage how such funds were spent. This helped them to avoid any negative changes that their governments might face that could make them retrieve money from ministries.

In Lesotho the situation was the opposite. Money allocated to the Office was still controlled by the Ministry of Finance. That made it susceptible to be affected whenever the Government of Lesotho found itself in difficult financial situation where it needed to reduce budgets allocated to all ministries. This had a negative impact on the Office's planned activities.

Another problem of centralized finances was that when Government made certain policies it did not consider the uniqueness of other offices, for example, when Government of Lesotho made a policy/ decision that all public officers would not go for international training, it did not take into consideration that there was nowhere within the country where training on Ombudsman ship could be obtained. This government decision or policy has

affected the Office negatively because none of the staff had been taken for training nor sent for attachment to other institutions, to gather the necessary skills.

### **-Office staff being public servants**

Other offices of the Ombudsman in other countries have been given authority to hire their own staff, and that meant that their staff members were not public officers. However, the situation is totally different in Lesotho, because the staff for the Ombudsman Office is recruited by the Public Service Commission. The staff for the Ombudsman office is for all intents and purposes, public officers governed by the Public Service Act and Regulations respectively. That made the public to lose confidence in the Office as there were strong public perceptions that the Office's independence was highly compromised.

Another challenge that the office was faced with, was that public officers could be transferred at any time, when the Ministry of Public Service found it necessary to effect transfers of public officers. An officer who would have been trained by the Office for the efficacy of such officer's office, would be transferred and be replaced with the one who had no training on Ombudsman ship. the Office or had no interest in it at all. That was a setback on the Office, especially if such an officer was holding a senior position.

### **Shortage of staff**

There was a shortage of staff in the investigations section because at the time there were only seven (7) investigators. This posed a great challenge for the investigators as on average each investigator had to investigate fifty-seven (57) cases per year. That was a huge number to be handled by one person. Therefore, there was a great need for an increase of staff for the investigations section to be effective.

## **Lack of cooperation by ministries/agencies**

The other challenge that the Ombudsman faced was that of uncooperative and hostile ministries and agencies. Since the Office did not have enforcement powers after delivering the recommendations, most government ministries and agencies opted to ignore the Ombudsman's recommendations. The reason for this behavior could be that chief accounting officers were political appointees and since there was no political will from the government pushing towards respect and autonomy of the Office, they did not feel compelled to comply with such recommendations. In such situations the only option that the Ombudsman had was to write special reports to Parliament. After submitting such reports, the Ombudsman would have no control over the matters anymore. On the other hand, Parliament on many occasions did not revert to the Ombudsman with updates.

## SECTION ONE

### 1.1 COMPLAINTS RECEIPT AND RESOLUTION

#### ANNEXTURE A

#### Statistical Analysis

Table 1: 2019/20 Statistical Analysis of Complaints

Ministry/Agency	Brought Forward (18/19)	Previous cases Closed (19/20)	Previous Years Carried Forward (20/21)	Received (19/20)	Sustained (19/20)	Not Sustained (19/20)	Closed (19/20)	Current Year Carried Forward (20/21)	Total Carried Forward (20/21)
CBL	3	3	0	1	0	1	0	0	0
SLB	1	0	1	0	0	0	0	0	1
Prime Min	2	1	1	3	2	1	2	0	1
IEC	0	0	0	2	1	1	0	1	1
WASCO	1	1	0	5	4	1	2	2	2
Energy	2	0	2	1	1	0	0	1	3
Soc. Dev.	4	1	3	1	1	0	0	1	4
Gender	0	0	0	2	2	0	0	2	2
Dev. Phn.	1	0	1	4	2	2	1	1	2
Small Business	0	0	0	2	2	0	0	2	2
Public Works	2	0	2	11	10	1	0	10	12
Public Service	5	1	4	2	2	0	0	2	6
Private	0	0	0	4	0	4	0	0	0
Labour	13	7	6	5	4	1	1	3	9
Justice and Law	11	1	10	12	9	3	1	8	18
Master of High Court	5	0	5	0	0	0	0	0	5
Foreign Affairs	1	0	1	1	1	0	0	1	2
LEC	2	0	2	5	4	1	1	3	5
Defense	7	0	7	5	5	0	2	3	10
Judiciary	2	0	2	12	9	3	2	7	9
LNIG	0	0	0	3	2	1	2	0	0
Forestry	0	0	0	4	4	0	1	3	3
Education	20	2	18	30	29	1	12	17	35
MAFS	30	7	23	3	2	1	0	2	25
Mining	1	0	1	0	0	0	0	0	1
Palace	0	0	0	1	1	0	0	1	1
Finance	30	2	28	11	11	0	2	9	37
LHDA	32	2	30	5	4	1	0	4	34
Tourism	3	3	0	1	1	0	1	0	0
DCEO	1	0	1	0	0	0	0	0	1
Police	14	3	11	10	7	3	2	5	16
Local Gov.	28	9	19	23	19	4	7	12	31
LHLDC	2	2	0	1	0	1	0	0	0
Water	2	1	1	1	1	0	0	1	2
Trade	0	0	0	2	2	0	0	2	2
Home Affairs	1	1	0	5	3	2	1	2	2
LNDC	0	0	0	1	1	0	0	1	1
Health	16	4	12	11	7	4	3	4	16
National Assembly	0	0	0	1	1	0	0	1	1
Communications	1	1	0	8	5	3	0	5	5
Metolong	0	0	0	2	2	0	0	2	2
<b>Total</b>	<b>243</b>	<b>52</b>	<b>191</b>	<b>201</b>	<b>161</b>	<b>40</b>	<b>43</b>	<b>118</b>	<b>309</b>

**Table 1 above shows that out of two hundred and forty three (243) cases brought forward from previous years into the year 2019/20, fifty two (52) cases were resolved while one hundred and ninety one (191) cases were carried forward into 2020/21. In 2019/20, two**

hundred and one cases (201) were received; one hundred and sixty one (161) cases were sustained and forty (40) cases were not sustained or referred. Forty three (43) of the sustained cases were resolved and closed within 2019/20. A total of old and new cases carried forward into 2020/21 was three hundred and nine (309). The total number of all cases (old and new) closed or resolved in 2019/20 was ninety five (95). This implies that only twenty one percent (21%) cases were resolved in that reporting year 2019/20.

In 2019/20 the Ombudsman received 201 new cases while cases received in 2018/19 were 185. This shows an increase of 16 cases or 7.9% increase of cases received in the past year.

**Table 2: Cases received from Ministries/Agencies by Mandate**

Ministry/Agency	Maladministration	Injustice	Corruption	Human Rights Violation
CBL	0	1	0	0
Prime Min	2	1	0	0
IEC	0	2	0	0
WASCO	4	1	0	0
Energy	0	1	0	0
Soc. Dev.	0	0	0	1
Gender	0	2	0	0
Dev. Pln.	1	3	0	0
Small Business	0	2	0	0
Public Works	4	7	0	0
Public Service	1	1	0	0
Private	0	4	0	0
Labour	3	2	0	0
Justice	5	6	1	0
Trade & Industry	2	0	0	0
Foreign Affairs	1	0	0	0
LEC	4	1	0	0
Defence	2	3	0	0
Judiciary	1	10	0	1
LNIG	3	0	0	0
Forestry	2	2	0	0
Education	19	11	0	0
MAFS	0	3	0	0
Finance	9	2	0	0
LHDA	4	0	1	0
Tourism	0	1	0	0
Palace	1	0	0	0
Police	2	6	0	2
Local Gov.	13	10	0	0
LHLDC	0	1	0	0
Water	0	1	0	0
Home Affairs	3	2	0	0
LNDC	0	1	0	0
Health	10	1	0	0
National Assembly	1	0	0	0
Communications	4	3	0	1
Metolong	1	1	0	0
<b>Total</b>	<b>102</b>	<b>92</b>	<b>2</b>	<b>5</b>

Table two shows detailed information on cases received from different Ministries and Agencies against their mandate areas. For illustration purposes the report would only mention few Ministries with highest number of cases on maladministration and injustice.

Ministry of Education reported 19 cases on maladministration and 11 cases on injustice. Ministry of Local Government reported 13 cases on maladministration, 10 cases on injustice were reported by Ministry of Local Government and Judiciary. Ministry of Health reported 10 cases of maladministration, Ministry of Finance reported 9 cases, Ministry of Police reported 6 cases on injustice and 7 cases were reported by Ministry of Public Works. The summery on cases received by mandate areas is illustrated by table 3 and figure 1 below.

**Table 3: Summary on Cases received by Mandate Area**

<b>Mandate Area</b>	<b>Number of Cases</b>
Maladministration	102
Injustice	92
Human Rights	5
Corruption	2
Environment	0
total	201

**Figure 2**

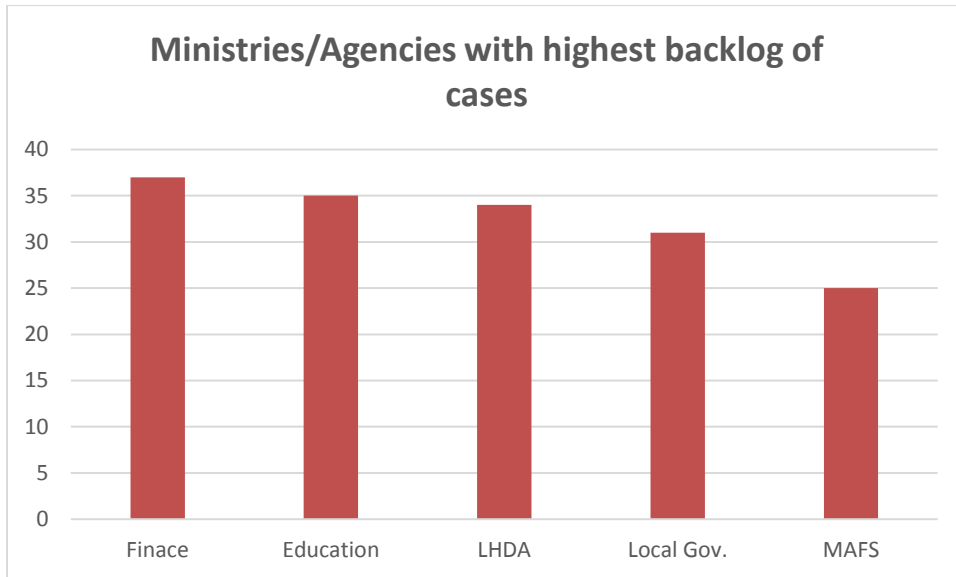


Table 3 and figure 2 above reflects the backlogging distribution of cases among Ministries and Agencies. In this table Finance was the highest with 37 cases that were carried to the next financial year, only a total of 4 cases closed that year. This was due to number of reasons stipulated below:

- **Budget** – The Office of the Ombudsman is allocated a very limited budget and 90% of the budget goes to employee’s salaries, operating costs and rent. Thus leaving 5% to all other much needed office activities.
- **Shortage of staff** – In the reporting year 2019/20, cases brought forward from previous years were 243. In 2019/20, received and sustained cases were 161. Therefore, the total number of cases that were to be resolved in that reporting year was 404. There were only 7 investigators available to work on 404 cases. Thus, on average each investigator handled 58 cases. This is elucidated further by table 4 below.



**Table 4: Total cases investigated in 2019/20**

Cases brought forward from previous years into 2019/20	Received & Sustained cases in 2019/20	Total cases	Number of investigators
243	161	404	7

- **Uncooperative Ministries and Agencies** – There were several ministries and agencies which are uncooperative when it comes to inquiries from the Ombudsman. They either ignored correspondence from the Office or responded to the inquiries after a long time. This unfortunate behaviour leads to a situation where it took long for an investigator to resolve a complaint. This in turn caused a great damage to the credibility of the Office and had demoralised investigators working on such cases.

**Figure 3**

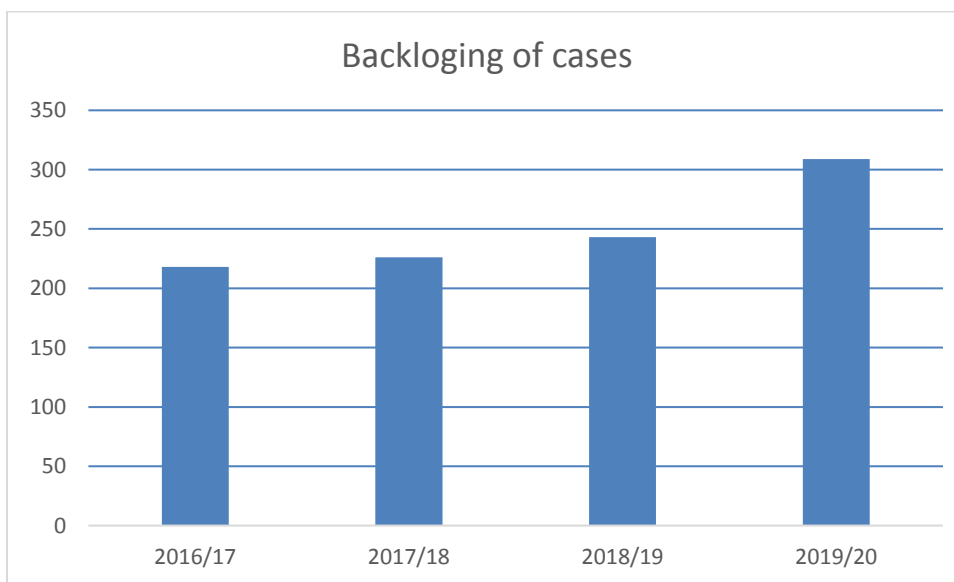


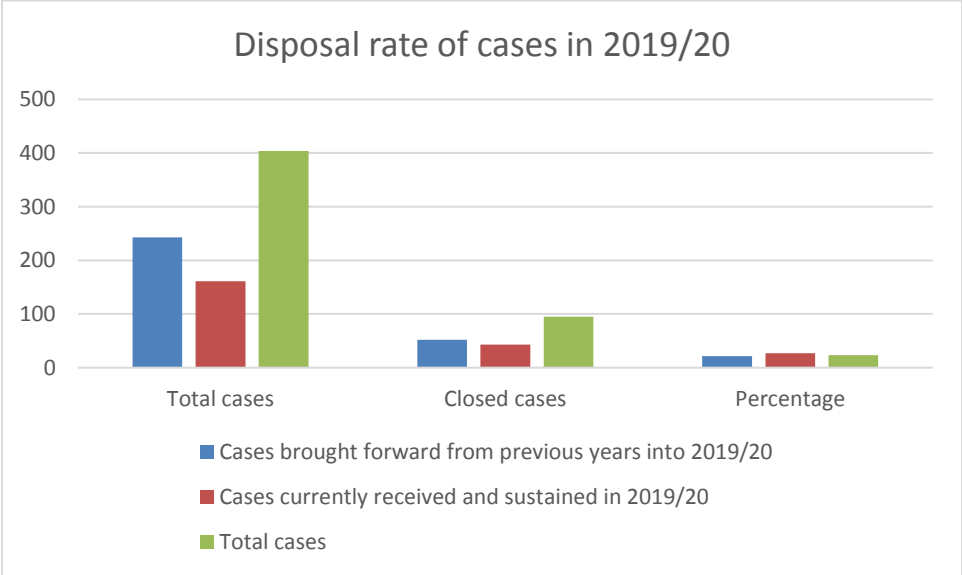
Figure 3 illustrates a consistent increase of backlogging cases over years taking the financial year 2016/17 as the base year. This is due to similar reasons mentioned under table 3

**Table 5: Disposal rate of cases in 2019/20**

Cases	Total cases	Closed cases	Percentage
Cases brought forward from previous years into 2019/20	243	52	21.4
Cases currently received and sustained in 2019/20	161	43	26.7
Total cases	404	95	23.5

Table 5 illustrates a very slow rate at which received cases from different Ministries and Agencies are concluded. Only 23.5 percent of the total received cases were resolved in that reporting year. This is illustrated more clearer by figure 4.

**Figure 4**



## **1.2 SELECTED CASES**

### **Mr. M vs Ministry of Health**

**Case No. OMB/2019/20/0160**

The Office the of Ombudsman received a complaint from Mr. M who alleged that in 2018 he was offered the position of an Epidemiologist by the Ministry of Health while awaiting his dissertation results. He added that he was approached by the then Human Resources Manager (HRM) who informed him that the Ministry was on a head hunt for an epidemiologist and asked if he was interested in the position. He alleged that he informed the HRM that he had just finished his course work and was working on a dissertation. He further stated that he applied with an incomplete transcript with a verbal agreement that he would submit his degree results as soon as they were available. He was invited for an interview at the Ministry of Health and was later informed that he had passed. He was invited for a second interview at the Public Service Commission (PSC), in July 2018 which he also passed and was offered the position at grade J.

He reported for duty in December 2018 but was paid a two (2) months' salary in January 2019 covering both December and January. He did not get any salary for February 2019. When he complained, the Principal Secretary (PS) informed him that there were some irregularities in his employment and that he had no certificates qualifying him for the position. He then approached the PSC where he was informed that the Ministry of Health had approached the Commission requesting his employment to be terminated as his engagement was not proper.

Upon receipt of the complaint the Ombudsman, on 3<sup>rd</sup> December 2019, issued a restraining order to the Ministry of Health suspending termination of the complainant's employment, giving him a chance to submit his certificate which was to be available by the 12<sup>th</sup> December 2019. On the 10<sup>th</sup> of January 2020 the Ministry of Health wrote to the Ombudsman and disclosed that the complainant gave false information regarding his qualifications as when he filled the first appointment forms, he had said to have obtained requisite qualification of Masters in Epidemiology. The Ministry also highlighted that the position was never advertised therefore the then management could not have head hunted the candidate as he alleged.

Based on the information given by the Ministry, the Ombudsman requested his personal file to confirm the allegations and the following observations were made;

- That the position was never advertised for the Ministry to conclude that there were no candidates and therefore opted for head hunting. This the Ombudsman found to be against the Public Service Regulations section 23 (a) which states that..... "in the case of scarce skills where suitable candidate cannot be identified through screening, head hunting and referrals shall be used to source candidates."
- That the complainant had misled the Commission that he was a qualified Epidemiologist, yet he was still pursuing his Masters.
- The Panel that assessed him during the initial interview that was held at the Ministry was not an appropriate authority as he was assessed by doctors only without the presence of head of Disease Control and Human Resources personnel.

- The assessment form that was used was tailor- made for doctors only, not meant for other qualifications including epidemiologists.
- His job description was different from the original job specifications for the position. This implied that the specifications were amended to suit his qualifications and experience.
- On the 13<sup>th</sup> January 2020 the Ombudsman summoned the complainant to his office to inform him of the findings. The complainant confirmed that the information he gave to the Commission was deceptive. Based on the investigations that were made, the Ombudsman dismissed the complaint and withdrew the restraining order. The case was closed.

## **Mr. M vs. Ministry of Trade**

### **Case No. OMB/2019/20/0042**

The Office of the Ombudsman received a complaint from Mr. M, a former employee of the Ministry of Trade on the 2<sup>nd</sup> of July 2019. Mr. M. alleged that he had never received his terminal benefits having retired in April 2017. He explained that the Ministry was not able to process his pension benefits due to an accident that occurred on the 20<sup>th</sup> June, 2016 while he was driving a vehicle (Y6090/CR08BLGP) which was leased to the Government of Lesotho by Bidvest Fleet Company. The Ministry had recommended that he be surcharged, but until he proceeded on retirement, the Ministry of Finance had not decided on the amount of his surcharge, therefore Trade could not process his terminal benefits.

On the 3<sup>rd</sup> of July 2019 the Ombudsman wrote to the Principal Secretary (PS) Trade to inquire about the complaint. He responded on the 18<sup>th</sup> of July 2019 that the complainant was involved in an accident whereby a government

vehicle was damaged. The then PS had recommended that he be surcharged. He also indicated that his file had since been with Procurement Policy Advisory Division (PPAD) in the Ministry of Finance on the basis that there were missing documents such as police accident report which made it difficult for PPAD to determine whether he was negligent or not. He added that Assistant Administration Officer's (AAO) report to PPAD had indicated that the Ministry did not incur any expenses as the vehicle was taken back to Bidvest for repairs and the same claimed for the expenses from their own insurance.

On the 30<sup>th</sup> August 2019 the Ombudsman convened a meeting in which the Ministry of Trade was represented by Deputy Principal Secretary (DPS) and Director Human Resources (DHR). They reiterated their response as had been submitted on the 3<sup>rd</sup> of July 2019. They added that in their opinion the complainant ought to be surcharged even though the Ministry or the government of Lesotho did not suffer any loss. However, they felt that since there were missing documents to support the process and taking into consideration the time that had lapsed, he should be paid his terminal benefits. At this stage the Ministry could not make a final decision as the matter had been referred to the Ministry of Finance to make a decision.

A follow up meeting was held on the 5<sup>th</sup> September 2019 wherein the Director PPAD was called to give facts on the matter on behalf of the Ministry of Finance. He disclosed that when analyzing the matter, they discovered that there was no evidence to justify the surcharge, in addition the loss was covered by Bidvest Fleet Company. He added that the contract between Bidvest and the government of Lesotho was entirely on a fixed term, which did not entail any insurance liability. He therefore recommended that the

case be closed. He added that the recommendation was yet to be forwarded to the Minister of Finance to make a final decision.

### **The Ombudsman's findings.**

- That there was no police accident report which made it difficult to determine whether the complainant was negligent or not.
- That the then PS made a decision to surcharge the complainant without considering the fact that in this case the government of Lesotho did not incur any loss, as the vehicle was leased by Bidvest Fleet Services which had pronounced that they would claim from their insurance. This was confirmed by the Ministry's AAO's report to the PPAD dated 16<sup>th</sup> February 2019.
- PS's reasons for surcharge was that the complainant had attended his personal errands without authorization. This the Ombudsman found not to be reason enough to warrant surcharge but rather a disciplinary action by the Ministry.
- That the Ministry of Finance had not made a decision on the recommendation made by the Director PPAD on the 26<sup>th</sup> March 2019, that the matter be closed.

On the basis of the above mentioned findings the Ombudsman recommended that PPAD release Mr. M's personal file to the Ministry so that it could process his terminal benefits within two months from the date of the Determination, which was the 10<sup>th</sup> of September 2019. At the time of writing this report, the Ministry had not yet complied.

## **Mr. L.S. VS. Maseru City Council (MCC)**

**Case No. OMB/2019/20/0053**

The complainant approached the Ombudsman on the 15<sup>th</sup> of July 2019. He was residing at Sea – Point Maseru and he alleged that his neighbor's septic tank leaked into his yard thus caused great damage to his property. He alleged to have reported this matter to MCC, but he was not assisted.

Upon receipt of this complaint the Ombudsman and his team went to the said site for inspection and indeed realized the damage that had been done on complainant's property. After the inspection the Ombudsman invited MCC to a meeting that was to be held at the Ombudsman's Offices on the 23<sup>rd</sup> August 2019. The meeting was held as scheduled and MCC was represented by officers from Health and Safety Department. In that meeting the Ombudsman and MCC agreed that the MCC would direct the complainant's neighbor to dig around her septic tank to establish if there was indeed the said leakage into complainant's yard. But the representatives reported that they needed to consult their superiors on the agreement. They were to revert to the Ombudsman on the 26<sup>th</sup> August 2019 to report on the outcome of the consultation with their superiors. MCC reported to the Ombudsman as agreed but said that their superiors had rejected the agreement. The Ombudsman contacted the acting Director of Health and Safety Department, who explained that as MCC they could not order the person being complaint against because MCC had long time ago established that the leakage did not come from the said septic tank even though she failed to explain how they had proved such.

On receipt of the report from MCC, the Ombudsman invited both MCC and WASCO to a meeting on the 2<sup>nd</sup> October 2019 to discuss the complaint further. The meeting was held as scheduled but WASCO did not turn up. In that meeting the MCC reported that they completely relied on WASCO's expertise on matters of this nature, so they suggested that WASCO be involved. The Ombudsman on the same day wrote a letter to the Chief Executive WASCO requesting him to provide experts who would go to the



site with MCC as the latter had requested on the 3<sup>rd</sup> October to establish the source of the problem.

Following WASCO and MCC's visit to the site the neighbor who was being complained raised a concern to the Ombudsman that the Ombudsman had not called her to his Office to give her side of the story on the matter. The Ombudsman gave her the chance to put her side and that's when the Ombudsman learned that the matter went as far as going to the courts of law. The following day MCC gave the Ombudsman a report on their joint visit to the neighbor's site with WASCO. They had found that indeed there was a leakage from the neighbor's septic tank into the complainant's site, but it emerged that the leakage was caused by the complainant himself when he dug a trench using a TLB with the intention of stopping the seepage from his neighbor's septic tank. MCC further reported that it was in that digging that the complainant tampered with the tank, causing more damage. Furthermore, MCC said they had ordered the complainant to repair the damage that he had caused on the tank, but he had not complied. MCC therefore was still awaiting the repairs so that they could continue in finding the solution to the problem.

The Ombudsman decided to call another meeting where all the parties were present. In that meeting the Ombudsman found that both the complainant and the neighbor blamed each other. Therefore, in order to find amicable solution, the Ombudsman recommended that the complainant and the neighbor should jointly make the repairs to the septic tank and the pipes since both were at fault. After a long debate on this recommendation the two parties finally agreed to go 50/50 on the repairs, but since the matter was already in the courts of law the Ombudsman advised both sides to go to the Magistrate court to withdraw the matter since it could not be dealt with by two separate entities. He explained that he would draw a document on which both would sign to confirm that they had reached an agreement.

While the Ombudsman was drafting the agreement, the complainant made a telephone call informing the Ombudsman that his wife had not agreed to the settlement terms and was therefore withdrawing his consent. The

Ombudsman then decided to withdraw the matter from his Office and advised the complainant to continue with the courts of law since the matter had not been withdrawn. The Ombudsman made a report to all the parties involved and the matter was closed.

### **Mr. M.P. vs. Ministry of Home Affairs**

**Case No. OMB/2018/19/0169**

The Complainant approached the Ombudsman on the 27<sup>th</sup> February 2019. He was an Indian man who was born in Lesotho, but he had never been to India since birth. He was aggrieved that The Ministry of Home Affairs denied him a National Identity Card (ID) claiming that he was not citizen of Lesotho. He believed he was entitled to the said document as he was issued a birth certificate in Lesotho and his parents came to Lesotho in 1986 and he was born in 1988 at Queen Elizabeth II Hospital. He further explained that he had never been issued an Indian Passport before. He said he had applied for the ID several times but had not received any assistance to date. He had been to the Director Immigration, the Deputy Minister and the Honorable Minister but in vein therefore requested the Ombudsman to intervene.

Upon receipt of this complaint the Ombudsman made an inquiry letter to the Ministry of Home Affairs on the 05<sup>th</sup> March 2019 and the response from Home Affairs was received on the 18<sup>th</sup> March 2019. The Principal Secretary in her response explained that the complainant was rightfully in possession of birth certificate issued in Lesotho as it was given to everybody born in Lesotho. The PS further explained that the complainant held Lesotho passport because in the past years the Lesotho passports were handwritten and therefore some people obtained them unlawfully. She further explained that holding a Lesotho passport did not qualify a person to be a citizen. She again indicated that the Citizenship order 1971 stipulated amongst others that a person shall not become a citizen of Lesotho if at the time of his or her birth neither of the parents was a citizen of Lesotho. When the complainant was born in 1988 neither of the parents was a Lesotho Citizen hence he

could not himself become a citizen of Lesotho. The letter went on to explain that what was to happen was for the complainant to apply for Lesotho Citizenship so that he could be issued with an ID as per the National Identity Act of 2011.

The response from the Ministry was given to the complainant and the Ombudsman explained to him that the Office could not pursue the matter any further because the Law was very clear on the issues concerning citizenship. The complainant was therefore advised to do what the Ministry had recommended, and the case was closed.

**Mr. R.K. VS Ministry of Development Planning- National Manpower Developmental Secretariat (NMDS)**

**Case No. OMB/2019/20/0144**

The Ombudsman received a complaint by Mr. K.R. against the Ministry of Development Planning, whereby he alleged that the Ministry through the National Manpower Developmental Secretariat (NMDS), had discriminated him from his fellow students while he was attached at Lets'eng Diamonds. He complained that he was not paid housing allowance whereas his counterparts were paid such. After receiving the complaint, the Ombudsman contacted the Deputy Director NMDS, who explained that the policy was that students attached within the country were not given housing allowance and that if there were such students, it was a mistake which had to be rectified. The Deputy Director submitted a copy of the policy to the Ombudsman, supporting his explanation. The complainant was informed accordingly. The case was closed.

## **Mr. K.E.M. vs. the Ministry of Tourism, Environment & Culture**

**Case No. OMB/2014/0010**

On the 21<sup>st</sup> January 2014 the Ombudsman received a complaint from Mr. K.E.M. who was aggrieved that he was unfairly and unprocedurally transferred from the Ministry of Tourism to the Ministry of Local Government in 2003 to occupy the post of the Deputy Director Chieftainship Affairs yet he was the Director of Tourism, the post which was awarded him by the Public Service Commission (PSC). He took that transfer to be tantamount to constructive demotion even though his salary was not affected at the time.

According to the complainant, his transfer was initiated by the then Honorable Minister of Tourism, who had expressed her dissatisfaction working with him for reasons only known to her. The complainant further explained that the Hon. Minister had informed the then PS of the Ministry of the Public Service (MPS) that she did not like working with Mr. K.E.M. therefore asked the PS MPS to transfer the complainant with immediate effect. The Minister was alleged to have given no reasons for the dislike she had for the complainant as she had informed the PS that she had no complaint about the complainant's work performance. The PS was said to have informed the complainant that he had no choice but to effect the transfer as was requested by the Minister.

The complainant informed the Ombudsman that he had been to different avenues including the Attorney General (AG) and PS MPS who had just replaced the former one to get redress for his complaint. These high ranking Government officials did not condone what had been done to Mr. K.E.M. and advised the PS Tourism to reinstate him to his position but the latter had said he could only comply if there was a court order to that effect. It was at this juncture that Mr. K.E.M. decided to come to the Ombudsman to seek his intervention.

On receipt of the complaint the Ombudsman, on the 17<sup>th</sup> May 2014, called the ministries of Local Government and of Tourism to a meeting wherein Local Government was represented by the Human Resources Officer (HRO) and Tourism represented by the Director HR and the Legal Officer. Tourism

informed the Ombudsman that since the complainant was transferred the post was occupied by a lady who unfortunately passed on and that the post had since been held by an acting officer pending its filling as it had been advertised. Tourism further said on the 20<sup>th</sup> August 2013 they were contacted by Lesotho Public Servants Staff Association (LEPSSA) on behalf of the complainant wherein LEPSSA explained that the complainant wanted to be reinstated to his position and to be paid his salary arrears because following the normalization exercise that was carried out by the MPS all the directors positions in the civil service were re-graded at Grade I but the complainant remained at Grade H because the position he was transferred to was that of Deputy Director and as such was not recognized under the normalization process. Tourism responding to LEPSSA, pointed out that MR. K.E.M. was on Grade H and was transferred to a position at Grade H which they alleged was the right thing. They said they advised LEPSSA that the post had been advertised so it should advise the complainant to apply for it like all other candidates if he was interested.

The Ombudsman was baffled by Tourism's response because it had given an impression that the complainant was not demoted when he was given that post because it was just a lateral transfer. That to the Ombudsman, was an indirect demotion. The Ombudsman then issued restraining orders to both Tourism and the PSC suspending any administrative action to be taken towards filling of the said post. Numerous meetings were held between the Ombudsman, Tourism, Local Government, MPS and the office of the Attorney General on the matter. At one point all other ministries were of the same understanding with the Ombudsman that the transfer was unprocedural and unfair to the complainant except Tourism which upheld that the act happened a long time ago as a result it had prescribed therefore the Ombudsman should not sustain it. The other ministries tried to advice Tourism to the contrary but in vain.

The Ombudsman asked Tourism to furnish her office with information regarding the following:

- Who initiated the transfer and the reasons thereof;
- Was PSC involved in the matter;

- A copy of a letter /minute of disciplinary proceedings against the complainant if there had been any; and
- Any proposals or concurrence for the transfer by the responsible authority.

None of the above information came forth except a copy of a letter from the Director of HR MPS transferring the complainant from Tourism to Local Government. Tourism further alleged that it consulted with PSC on the issue and it was informed that prior to 2005 it was common practice not to involve PSC on matters of transfers but the MPS.

The Ombudsman's findings;

1. The employment record revealed nothing amiss about the complainant performance and professionalism at Tourism
2. Tourism did not exercise care when it was instructed to transfer the complainant
3. The Ministry ignored legal advice from the Attorney General to reinstate the complainant to his position.
4. The Ministry failed in its obligation to protect the rights of the complainant.
5. It was anomalous of MPS to transfer an officer to a lower position only on the basis of the salary scale.
6. It was clear that the transfer was done under pressure than a need.
7. The complainant's numerous pleas to be transferred back to Tourism were ignored or not taken seriously.
8. The transfer of the officer to a lower post did not benefit him but prejudiced him to grow in service, especially because he was transferred to deal with matters far from the field in which he was well trained; tourism.

The Ombudsman issued a determination on the 14<sup>th</sup> November 2014 wherein she recommended that;

- i) Tourism transfer back the complainant to Tourism to occupy the vacant position of Director Tourism, a position he occupied before the unfortunate transfer.

- ii) Tourism process the normalization of his position as is usual with effect from the date the salaries of all civil servants in his position were normalized.

The Ministry was to comply within three (3) months of receipt of a determination.

Tourism did not comply at all until the Ombudsman took an effort to meet the Minister Tourism, only to learn that in fact it was the Minister who was against the compliance. Several meetings were again held between the Ombudsman and the Minister but in vain. PS's were changed and they were reporting that they wanted to comply, but the problem was the Minister who seemed to have a different opinion.

It was only in 2019 when a new minister and a new PS came into office that Tourism complied with the Ombudsman's recommendations but unfortunately by that time the complainant had already proceeded on retirement therefore could not be reinstated to the position but in September 2019 he was paid his terminal benefits and salary arrears accordingly. The restraining order was also uplifted. The case was therefore closed.

### **Mrs. M. L. vs Ministry of Agriculture and Food Security (MAFS)**

**Case No. OMB/2016/17/0130**

On the 14<sup>th</sup> March 2017 the Ombudsman received a complaint from Mrs. M.L. who was complaining that she had not received death gratuity in respect of her late husband who passed away on the 23<sup>rd</sup> May 2010, while he was in the employ of MAFS in the Department of Livestock where he worked as Livestock Attendant. The position he occupied from 2005.

The Ombudsman informed MAFS about the complaint on the 29<sup>th</sup> March 2017, but MAFS did not respond to the Ombudsman's inquiry despite repeated reminders to do so, until on the 8<sup>th</sup> January 2018 when MAFS replied to inform the Ombudsman that the late officer's personal file had been misplaced, however, his family had re- submitted the required information

except a letter from the Master of the High Court which was to facilitate that the minor children of the deceased acquire bank accounts into which their shares of the terminal benefits would be deposited.

The Ombudsman informed the family to acquire the said letter from the Master of the High Court and submit it to MAFS so that the process of payment of terminal benefits could be started. This letter was said to be a requirement by the Public Officers' Defined Contribution Pension Fund as the late officer was a contributing member of the Fund. The family managed to secure the letter and submitted it to the Human Resources Officer at the District Agricultural Office in Mokhotlong where the late officer was based.

On the 09<sup>th</sup> September 2019 the Ombudsman received a confirmation from MAFS that the death gratuity had been paid and deposited into the bank accounts of the children and the mother accordingly. The case was therefore closed.

## **Lesotho Agricultural College (LAC) graduates vs. MAFS**

### **Case No. OMB/2014/0009**

The Ombudsman received a complaint from some Diploma holders. They alleged that they were graduates of the Lesotho Agricultural College who graduated in different years with Diploma in Agricultural Engineering Land and Water Management but were struggling to secure employment as their certificates were not recognized anywhere in the country and yet LAC had undertaken when it introduced the certificate to see to it that it was recognized.

On receipt of the complaint the Ombudsman informed MAFS on the 7<sup>th</sup> February 2014 and sought its comments on the matter. MAFS did not respond to the inquiry until on the 4<sup>th</sup> March 2014 when the Ombudsman made a follow up telephonically. MAFS made an undertaking to respond to the inquiry within two days as it was busy consulting with LAC on the matter. The Ombudsman made another follow up telephonically on the 19<sup>th</sup> March 2014 wherein PS MAFS informed him that he, PS, was in India and referred



the Ombudsman to the acting Deputy Principal Secretary (DPS). The DPS alleged she knew nothing about the case but undertook to consult the Principal LAC and revert to the Ombudsman with a response.

Days went by without any update from MAFS. The Ombudsman made a decision to call MAFS to a meeting to deliberate on the matter. In that meeting acting DPS MAFS informed the Ombudsman that the Ministry was aware of the problem as a result they were working together with LAC to get accreditation for the qualification. They also said the Ministry was going to submit a request to Cabinet to get the qualification accredited.

Subsequent meeting was held between DPS and the Ombudsman wherein the former informed the latter that MAFS had approached the Council of Higher Education (CHE) to assess the qualification so that it could be accredited but CHE in response asked LAC to assess itself. LAC did and submitted a report to CHE. MAFS was awaiting CHE to make a decision.

Another meeting was held on the 24<sup>th</sup> August 2018 wherein MAFS reported that CHE had made a decision that the qualification would be graded to be equal to a Diploma from the National University of Lesotho or any other institution. They also reported that a meeting was held between MAFS's PS, DPS, Director of Crops and the students wherein the following were undertaken:

- That MAFS would create twelve (12) positions in order to absorb the graduates.
- That the Director of Human Resources (DHR) MAFS would be advised to kick start the process of creating new posts.
- To have a meeting with the Principal LAC to iron out some issues.
- To have a meeting with the Ministry of the Public Service regarding the engagement of the graduates.

On the 12<sup>th</sup> December 2019 MAFS informed the Ombudsman that the problem had been solved and that some graduates of the course had been absorbed into the public service. The case was closed.

## Mr. M.R. vs National Security Services

Case No. OMB/2018/19/0160

On the 18<sup>th</sup> January 2019, Mr. M.R., the complainant, brought a complaint to the office of the Ombudsman against National Security Services (NSS). He complaint that on or around the 20<sup>th</sup> October 2014 during the staff meeting of (NSS) members for Maseru district, the Regional Security Officer (RSO), made a statement in which the complainant was labeled as being active in politics. He said he felt that the statement would have adverse effect on his service in NSS, as a result, he consulted his legal counsel who in turn wrote a letter of demand to NSS to retract the statement, issue an apology and to compensate the complainant in the sum of two million Maloti (M2,000,000.00).

Upon receiving this letter NSS instituted disciplinary hearing against the complainant on ground of misconduct/breach of discipline. It was alleged that the complainant had failed to follow the grievance procedure set out in Part VIII of the NSS Regulations 2000, by instructing his legal representative to issue a letter of demand to NSS before exhausting internal remedies. The complainant elected to be represented by his lawyer in the hearing to be convened. The lawyer wrote a letter to NSS informing them of such and advising them to adhere to regulation 30 (3) of NSS Regulations 2000 by affording the complainant enough time to prepare for his hearing. The lawyer stated that according to the stipulated section, the hearing should be held between the 18<sup>th</sup> and 23<sup>rd</sup> December 2014. Instead of continuing with the hearing, NSS issued the complainant with a re-deployment letter on the 19<sup>th</sup> December 2014, which stated that the complainant had been re-deployed from Roma to Semonkong with immediate effect. Nothing was ever said about the disciplinary hearing. The re-deployment letter was written by the District Security Officer Maseru (DSO). The complainant in turn wrote a letter to the DSO, dated 22<sup>nd</sup> December 2014, in which the complainant stated as follows:

- a. **“I am being transferred to a place of over forty (40) kilometers in distance but with no time to prepare and this is contrary to the Public Service Regulations of 2008, section 32 (5) which clearly**

**states, “The Head of Department shall before transferring a public officer to a new station which is a distance of 40 km and above from his or her duty station, notify the officer of the transfer at least three months before the date of transfer”. I feel I have not been given enough time to prepare myself for the said re-deployment.**

- b. “I am of the opinion that this transfer is unfair and mala fide, as I have a delictual claim against NSS and my lawyer is in Maseru therefore I must be closer to her for any consultations, as a result I feel that this re-deployment is an obstruction of justice since I will not have enough time to prepare for it”.**
- c. “My mother is sick, and bed ridden therefore being at Semonkong will be extremely difficult to take care of her.”**

However, on the 29<sup>th</sup> December, 2014, the DSO responded to the complainant’s letter, wherein he stated that his letter had not requested the complainant to respond to it. The DSO further stated that the complainant seemed to be confused because in his letter he talked about the transfer, while he the DSO did not have power to transfer but to re-deploy staff. The DSO further stated in his letter that it was the first time that he heard about the sickness of the complainant’s mother and that even the complainant’s immediate supervisor did not know of that fact. He did not address the issue of a civil case pending against NSS but instead talked about the disciplinary hearing, which he said the complainant would be given transport to attend when that time came. The DSO did not consider the complainant’s request for time to prepare himself before the transfer was effected, but instead emphasized that the order to re-deploy still stood and non-compliance to the said order would be considered as absence without leave. In the first paragraph of his letter, the complainant requested to be given more time to prepare for his sick mother who was bed ridden. The DSO replied to the request by reiterating that the complainant has been transferred and the letter of transfer did not need a reply from him.

The complainant did not report to Semonkong as his new duty station. He received a show cause letter advising him to state the reasons why provisions of NSS Act 1998 section 12(1) could not be used to discharge him

from service. When he failed to file his response within stipulated time, he was written a letter of dismissal as per the above-mentioned section.

Upon receipt of this complaint the Ombudsman wrote an inquiry letter to NSS apprising them of the complainant's allegations and requesting response to such claims. The response indicated that in line with the dictates of Audi alteram partem rule, the complainant was given a show cause letter which he failed to respond to within seven (7) days and still did not report to work. The NSS further stated that it was not necessary to institute a disciplinary inquiry against him because the section he was discharged under, did not talk about disciplinary hearing but rather straight dismissal. The show cause letter was meant to afford him a chance to state his reasons and objections but he chose to ignore it. The Ombudsman decided to call a meeting with NSS for clarity on certain issues.

On the 11<sup>th</sup> November 2019, the Ombudsman met with NSS where this case was discussed. During the meeting the Ombudsman established that NSS Regulations were silent on the notice period to be given to the officer before the transfer or re-deployment could be effected. NSS also stated that due to the nature of their work the three (3) months' notice period was usually not given because of work exigencies. A subsequent question was asked as to why it was not written on the complainant's transfer letter that the immediate transfer was due to work exigencies. They mentioned in their reply that when a person gets transferred in that manner it was implied that such transfer was due to work exigencies.

The Ombudsman also inquired as to who was vested with the powers to transfer officers, and he was informed that such powers according to the NSS Regulations 2000, were delegated to the Director General.

### **The Ombudsman's findings;**

1. The Ombudsman found that the transfer from Roma to Semonkong with immediate effect was malicious because there was no justification made for effecting such a transfer.

2. The Ombudsman also discovered that the transfer letter was authored by the DSO Maseru, who did not in law have the authority to transfer the complainant, as stipulated by the National Security Services (Delegation of Powers) Notice of 2000. The letter did not even say that the Director General had instructed the DSO Maseru to transfer the complainant. Rather it was DSO Maseru who actually effected the transfer. There was no indication anywhere that such powers were re-delegated to the DSO, however, even if that had been the case, it could have been ultra-vires as delegated powers cannot be re-delegated. It was clear therefore that the right to transfer officers was vested only on the DG. And since the law did not explicitly grant such powers to the DSO as well, then his actions in this regard could be taken to be ultra vires as it was carried out by someone who had no authority in law to do so.
3. The disciplinary hearing against the Complainant was abandoned and he was never informed of the reasons why.

**The Ombudsman therefore recommended that;**

1. National Security Services should formulate a clear transfer policy that must be used in future to avoid cases such as this.
2. Since the Director General was the only one bestowed with the power to transfer officers, every transfer of National Security Services officers must be effected by the Director General.

National Security Services was given three (3) months from the date of this determination to re-instate Mr. M.R to his substantive position.

The DG on the 3<sup>rd</sup> of July 2020 wrote a letter to the Ombudsman expressing NSS's dissatisfaction and concerns which compelled them not to comply with the above determination. The Ombudsman replied to this letter by bringing to the Director's attention that once the determination had been made, no further correspondence may be made especially if such was aimed at questioning the Ombudsman's decision. The only legal route available to

NSS was to approach the High Court for review of the Ombudsman's decision as a matter of administrative law.

## **SECTION TWO**

### **2.1 INFORMATION DISSERMINATION**

#### **2.1.1 OUTREACH PROGRAM**

The office of the Ombudsman made an assessment of the cases that in received in the previous years and it was realized that there were some areas from where the Ombudsman had never received complaints. This, the Office believed could be attributed to the fact that people in those areas/communities did not know about the office and its functions or that the communities were not able to access the services offered by the Office. On this basis the office decided to continue conducting public awareness campaigns to disseminate information to the communities that had never been visited before, to create awareness about the existence of the Office and its functions and also to revisit some communities that were visited a long time ago in order to refresh their memories about the Office.

The Office made a decision to conduct complaints intake units in the areas visited to receive complaints from the aggrieved members of the communities. In this reporting year, presentations in different districts of the country were made at which the public was addressed on the duties and functions of the Office. After the presentations they were allowed to ask questions on what they were informed about. Pamphlets containing information about the Office were distributed. Complaints intake clinics were also conducted whereat people registered their complaints to be investigated by the Office.

The table below is a list of villages and institutions visited per district and the number of people addressed;

<b>District</b>	<b>Village/Institution</b>	<b>No.of people</b>
Leribe	Moreneng	47
	Kolonyama Manganeng	127
	Agric College	230
Butha-Buthe	Motahane	32
	Qobella	32
	Kolone	82
	Butha-Buthe High School	9(teachers)
	Butha-Buthe police station	50
	'Muela Police & Community policing members	20
Quthing	Ha Peete	42
	Ha Mohlakoana	69
Qacha's Nek	Hloahloeng Ha Nkau	119
	Phapanong Ha Leteba	124
	Ha Ratšoleli	50
	Ha Hlapalimane	103
Mafeteng	Ha Toloane	165
	Tsakholo	56
	Likhoele	357
Thaba-Tseka	Mantšonyane Ha Toka	157
	Thabong 1	54
	Mohlanapeng	200
	Kolberg	73
	Thaba-Tseka police station	78
Berea	Ha 'Mamathe	20
	Ha Koali	66
	Sefikeng	70
	Lithabaneng	16
Mohale's Hoek	Taung	180
	Likoeneng	127
	Mekaling	180

There were no public gatherings in the Maseru district but public stalls were erected at different industrial areas where pamphlets containing vital information about the Office of the Ombudsman were distributed.

The areas visited were;

Area	No.of pamphlets distributed
Tikoe industrial	1,800
Maseru industrial	10,000
Thetsane industrial	7,960

### **2 .1.2 RADIO PROGRAMS**

The Office after long time, had the opportunity to educate the public about the Office and the services offered through radio and television programs. This was after Tšenolo and Molisa ea Molemo radio stations together with the national television offered non-payable slots to the Office. This came as a great opportunity for the Office to educate and remind the public about the existence of the Ombudsman's office since it was realized that quite a number of the population still did not know about it. These were call in programmes where after the presentations, listeners were allowed to call in for clarity and suggestions on improvement of the services offered by the Office.



## **SECTION THREE**

### **3.1 INSPECTIONS**

#### **ENVIROMENTAL INSPECTIONS**

Section 7(6)(b) of the Ombudsman Act of 1996 stipulates that the Ombudsman can carry out an inspection whenever it comes to his notice, whether as a result of investigations undertaken by him or upon his own observation, that there exist certain conditions, practices or tendencies that are the cause of or likely to result in degradation, depletion destruction or pollution of natural resources, environment or of the ecosystem.

On the 3<sup>rd</sup> of September 2019 the Ombudsman jointly with the Maseru Town Clerk, carried out inspections of the Maseru industrial sites namely, Tikoe, Thetsane and Maseru.

#### **TIKOE**

-It was observed that some companies burned their trash, the ash of which would be collected by MCC trucks for disposal.

- There was an unlawful dumping site close to the Phuthiatsana River. This resulted in the river being littered with plastics and shreds of cloth.

- The Ombudsman was informed by TILO Cleaning company, which was engaged by Lesotho National Development Corporation (LNDC) to clean the surroundings and collect trash for collection by MCC, that there were two factories which were dumping on that illegal site. The Ombudsman also realized that there was household trash dumped, which indicated that the nearby communities also used the area as a dumping site.

#### **THETSANE**

-Next to Taiyuan factory there was a huge hip of trash, the state of which showed that the situation had been like that for a very long time as most of it had decomposed and had a stinking smell.

-Close to CGM factory there was another dumping site which had blocked the drainage passing near the entrance of the Factory.

On both dumping sites, plastic trash was dominating.

## **MASERU**

The drainages running along the road from Easi Gas company to Government Printing were inundated in plastic dispose thereby causing blockage.

## **BEREA (Malubalube dumping site)**

The Ombudsman discovered that the site was properly fence around, except that there was no gate at the entrance and the fence had been cut open towards the entrance. A guard house had been erected at the entrance although it was dilapidated, with broken and walls in need of painting.

There were only two ladies who managed the site from 8:00hrs to 15:00hrs, thereafter the site was unsupervised. The waste from the Hospital, classified as infectious and containing sharp items was also dumped at the site. This posed a very serious health hazard. It was also observed that spoiled food stuffs from various shops in Berea were dumped at the site. Since entry into the site was not controlled and regulated, children from nearby villages went to the site to pick things to play with and some food stuffs. This had recently resulted in the deaths of two (2) children, who were suspected to have eaten contaminated food they had picked from the site.

The Ombudsman recommended that the office of the town clerk should take all necessary steps to install a gate so that entrance into the dumping site could be regulated/controlled. He also recommended that the fence be repaired, guard house be renovated and a full time guard be hired to control entry.

The Ombudsman recommended that the management of Berea hospital should ensure that infectious and sharp waste was not dumped at the site because it posed serious health hazard. The infectious and sharp waste was to be incinerated at all times. The Town Clerk was ordered to implement the Ombudsman's recommendation within a period of six (6) months from the date the recommendations were made.

## **MAPUTSOE**

On the 27<sup>th</sup> January 2006 the Ombudsman inspected the dumping area at Ha Nyenye and thereafter recommended that the dumping site be abolished as it was seen to pose danger to all aspects of good health. It posed unhealthy conditions to the nearby villages and the students at a nearby school. He therefore recommended that an alternative dumping site be secured far from the communities.

The Ombudsman had also recommended that legislation regulating refuse collection and dumping be enforced.

On the 11<sup>th</sup> September 2019 the Ombudsman visited the site to inspect compliance with his recommendations by the Town Physical Planning office Maputsoe. The Town Clerk Maputsoe explained to the Ombudsman that her office had failed to comply with his recommendations in other aspects but had managed to do the following;

- The site was fenced, and the Council had hired a watchman who provided security to the site to make sure that disallowed trash like food stuffs was not being dumped in the area. The second watchman was hired by private companies which were buying recyclable materials from the Town Clerk and had compressing machines to compress the materials on the site. The Town Clerk complained to the Ombudsman that although they were collecting money from the sale of recyclable material, money collected was being deposited into the Sub-Accountancy, as a result her office could not access it to take care of some of the needs for maintenance of the site, nor to make some developments.

The Clerk undertook to request money for the recommended land filling in the following budget year, and to purchase a refuse removal vehicle. Before the end of the fiscal year 2019/20 the Town Clerk informed the Ombudsman that the Ministry of Local Government had bought a required vehicle for Maputsoe town.

## SECTION FOUR

### 4.1 ADMINISTRATION MATTERS

#### FINANCE

During the Financial Year 2019/20, the Approved Estimates totaled eight million, six hundred and seventy-three thousand, five hundred and seventy-eight Maloti (M 8,673,578) while the Released Funds Warrants were eight million, six hundred and seventy-two thousand and thirteen Maloti (M 8,672,01), which was one thousand, five hundred and sixty-four Maloti and eighty-four Lisente (1564.84) below the approved budget. This deficit was 0.02%.

Below is the breakdown of Approved and Released Budgets against the Actual Expenditure in monetary and percentage units:

SUB-HEAD	APPROVED BUDGET	RELEASED BUDGET	ACTUAL EXPENDITURE	VARIANCE	% OF EXPENDITURE	% OF UNSPENT RELEASED FUNDS
PERSONAL EMOLUMENTS	5,039,486.00	5,039,486.00	4,839,500.92	199,985.08	96.03	3.97
TRAVEL AND TRANSPORT	712,860.19	712,860.00	677,156.00	35,704.00	94.99	5.01
OPERATING COSTS	2,921,231.81	2,919,667.00	2,919,200.00	467.00	99.98	0.02
<b>TOTALS</b>	<b>8,673,578.00</b>	<b>8,672,013.00</b>	<b>8,435,856.92</b>	<b>236,156.08</b>	<b>97.28</b>	<b>2.72</b>

Out of M 8, 672,013.00 released, M8, 435,856.92 was spent (97.28% of the total funds released).

- M 236,156.08 was left unspent at the end of 2019/20 Financial Year (2.72% of the total funds released).

## **ADMINISTRATION AND TRANSPORT**

### **TRANSPORT**

During the review period, the following Basotho leased vehicles were operating under the Office of the Ombudsman: -

<b>Registration no.</b>	<b>Make</b>
E4727 (replacement to X6279)	Toyota Hilux GD6
H3324	Toyota Hilux GD6
R6856	Toyota Corolla
<b>TOTAL</b>	<b>3</b>

The Office had the following Government owned vehicles in the fleet;

<b>Registration no.</b>	<b>Make</b>
X6065	Polo Vivo 1.6
X6219	Nissan Hardbody 4x4 D/C

The Ombudsman was supposed to be bought an official vehicle, Lexus model, but due to budget constraints, the Office was unable to do so

### **OFFICE FURNITURE AND EQUIPMENT**

Since the Office moved to a larger space in 2018/2019, the Office was supposed to buy new furniture to cater for increased offices, including the second boardroom, but again due to lack of funds this was not achieved.

## **HUMAN RESOURCES**

### **APPOINTMENTS OF OFFICERS**

- Advocate Tšeliso Mokoko joined the Office as the Ombudsman on a four(4) year contract with effect from the 3<sup>rd</sup> June 2019.
- The Public Service Commission appointed Ms. Motšelisi Makhele on a three (3) year contract to serve as a Principal Investigations Officer, Grade H.
- The vacant position of Procurement officer, Grade G, was advertised in December 2018. The Public Service Commission appointed Ms Lentsoenyane on promotion to fill the position. However, Ms Lentsoenyane declined the offer. As a result, the Office had to re-advertise the position.
- Ms Lebiletsa Ramoholi was transferred on promotion from the Ministry of Law to the Office of the Ombudsman to hold the vacant position of Assistant Personal Secretary, Grade D in July 2019.
- Messrs. Molakeng Molakeng and Mr. Thoriso Mahlahlane were appointed to hold vacant positions of Drivers, Grade C with effect from 3<sup>rd</sup> December 2019.
- The position of Economic Planner, Grade G, was advertised and the short list submitted to the Public Service Commission, which was yet to conduct interviews.
- Mrs. 'Matsebo Mokhobo (Office Assistant, Grade A), completed her one (1) year probationary period on the 23<sup>rd</sup> April 2019 and was to be confirmed into permanent and pensionable appointment.

## **TRAINING AND DEVELOPMENT**

- Ms. Reitumetse Ranthako (Assistant Systems Support Officer, Grade F) resumed her full duties in January 2020 after completion of her studies with the University of Pretoria December 2019.
- Mrs Mathabiso Phelane (Public Relation Officer, Grade G) was in her second year of her study leave.

## **DEPARTURE OF OFFICERS**

- The following officers left the Office upon reaching compulsory retirement age;

(1) Mr. Leshapa Tšosane (Principal Investigations Officer, Grade H) on the 24<sup>th</sup> August 2019.

(2) Mr. Tankiso Ntlaloe (Driver, Grade C) on the 22<sup>nd</sup> October 2019.

(3) Mrs. 'Matebello Maqalika (Executive Secretary, grade F), retired from the Public Service in March 2020.

The three of them were paid their gratuities timeously.

- Mr. Lemohang Tsatsi (Driver, Grade C) passed away on the 23<sup>rd</sup> July 2019.