

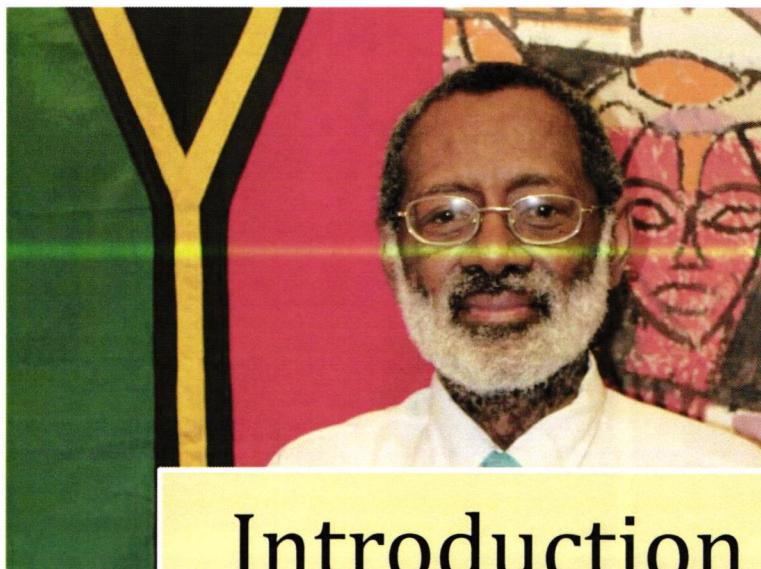
Office of the Ombudsman  
Bureau du Médiateur  
Ofis Blong Ombudsman



Annual Report 2019

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# Introduction

## Welcome!

It is my pleasure to submit this report to the Honourable Prime Minister for presentation to Parliament, summarizing the activities, achievements, challenges, findings, and recommendations carried out by my Office in 2019.

### Staff movements

2019 has been a busy and challenging year. But it has also been a year for growth for the country's "watch dog" i.e., the Office of the Ombudsman. Mr. Alain Wai Molgos, who from 14 March 2018 was the Acting Ombudsman, left the Office on 10 July 2019 on termination of his Acting Appointment. My formal appointment as the 6th Ombudsman of Vanuatu was made on the 10th of July 2019. In March 2019, my Office finally recruited a Legal Counsel to fill a vacancy that had existed since July 2018. Two staff members retired from the Office and an additional three staff members were recruited in 2019. My Office now has a total of 15 staff, compared to 18 staff in 2018.

### Challenges and achievements

This year there were a lot of challenges faced by my Office, but also high productivity and positive feedback.

Since starting as Ombudsman, I have dealt with a backlog of cases, some of which were over 10 years old. Since January 2019, my Office was investigating a total of 245 complaints. This number is exclusive of 46 new complaints received in 2019. At the end of December 2019, the total number of registered complaints was reduced by 148. In comparison to 2018, this year, my Office investigated and closed 148 cases, compared to 75 cases that were closed in 2018. This was possible through the combined effort and team work of all investigators and my Legal Counsel, Mr Eric Csiba who created a strategy to clear the "backlog". I wish to extend a big thank you to the many government agencies that were cooperative to close complaints

associated with them. Many investigations were resolved with relevant government institutions and no reports were necessary. Some investigations were referred to other authorities with powers to deal with issues raised in the first instance. This shows that I cannot work in isolation to resolve or investigate a matter. I need and depend on the collaborative efforts of everyone concerned in a complaint.

Following my appointment in July, I took part in a number of awareness outreach programs with the public, local and government leaders and state institutions in Efate, communities in Pentecost, and leaders in Espiritu Santo and Vanua Lava. Due to budget constraints, my office was unable to reach out to other islands of Vanuatu.

In 2016, the Council of Ministers (COM) approved a COM paper to review the Ombudsman Act, the Leadership Code Act and the sections pertaining to the Ombudsman in the Constitution. After many attempts from the outgoing Legal Counsel and Ombudsman, this exercise was finally completed by my Legal Counsel and Management Team in 2019 under my supervision. The Amendments were debated in Parliament during the last sitting of the 11<sup>th</sup> Legislature and approved unanimously in December 2019. This is a great achievement and will lead to changes that better recognise my office as a truly independent watchdog, a key requirement for an Ombudsman.

### **Recommendations**

In order to effectively and efficiently perform its duties and mandate, my Office requires additional staff to meet our objectives and deliverables. Adequate funding or finance is required to recruit more new staff.

The legal framework of my Office that was passed back in 1998 requires adequate change to align with or support the current and evolving work environment of the Ombudsman's Office. Being under the Public Service Commission (PSC) has caused many unnecessary delays to the work process of my Office especially when dealing with change to align with or support the current and evolving work environment of the Ombudsman's Office. Being under the Public Service Commission (PSC) has caused many unnecessary delays to the work process of my Office especially when dealing with urgent matters. I am highly recommending the Ombudsman's Office to be solely independent from the PSC hence in 2020, will work with appropriate authorities to implement this significant separation.

### **Looking forward**

In 2019, my focus was on individual and institutional capacity building my staff to be able to perform their functions effectively.

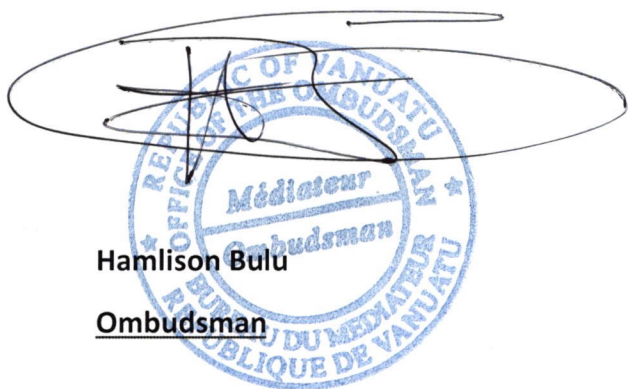
In 2020, I will continue my Offices' partnership for learning from the New Zealand Ombudsman's Office.

I recognise that in order for my Office to deliver and implement the requirements of the Constitution, the Ombudsman's Act and the Constitution, the Ombudsman's Act and other relevant legislations mandating the work of the Ombudsman, our focus for 2020 will be training and upskilling investigators to effectively and efficiently do their work. My



investigators have, for a long time, lacked adequate investigation and report writing skills and I plan to improve this shortfall in 2020 onwards.

I take this opportunity to acknowledge my predecessors and all of my staff for their past and present achievements in ensuring that leaders and Government agencies' decisions and actions are done in accordance with the rule of law and that justice prevails at all times.



Handwritten signature of Hamlison Bulu over the official seal of the Office of the Ombudsman, Republic of Vanuatu. The seal is circular with the text "OFFICE OF THE OMBUDSMAN" and "RÉPUBLIQUE DE VANUATU" around the perimeter, and "Médiateur" and "Ombudsman" in the center.

**Hamlison Bulu**

**Ombudsman**



## 2019 at a glance

### **Staff retreat**

The year started with a retreat comprising all Office staff and the Acting Ombudsman Alain Wai Molgos. The retreat took place at the Department of Women's Affairs Conference room from 29 to 30 January 2019. The retreat was a time to review the way the Office functions and agree ways for the Office to better carry out its mandate of ensuring that leaders and government institutions uphold the law in all decisions made and actions taken. At the retreat the Office agreed its Business Plan for the year and actions to be carried out by different teams to achieve the business plan.

### **Recruitment**

Employees are our most important asset. With the limited number of investigators at the Office, I have been aiming to recruit more staff each year. In 2019, the Ombudsman's Office recruited four (4) new Officers.

### **Prison Inspection Training**

Prison inspection training was the first training undertaken for investigators in 2019. Training was conducted by two officers from the UNDP and three officers from the New Zealand Office of the Ombudsman. The training was attended by all 10 investigators on the 26<sup>th</sup> and 27<sup>th</sup> March 2019. Investigators developed their skills in receiving complaints and concerns of detainees and staff members employed at the Correctional Detention Centres. Following this, for the first time, my Office, in collaboration with the Director and staff of the Department of Correctional Services, successfully carried out a visit to all the Correctional Detention Centres in Port Vila on 05 April 2019.

### **Midyear retreat**

From 1 to 5 July, my Office organized a midyear retreat to review work carried out up to that point to assess progress against our Business Plan. During the retreat, the Office reviewed its organisational structure and identified the need for a Deputy Ombudsman.

### **Appointment of 6th Ombudsman**

I was appointed the 6th Ombudsman on 10 July 2019 and took my Oath of Office and Oath of Allegiance before the Head of State on 16th July 2019.

### **Staff training in Fiji**

In July 2019, two members of staff attended a one-week training in Suva, Fiji, in investigations with other investigators from the Pacific. This training was sponsored by the International Ombudsman Institute (IOI) and jointly ran by the IOI and New Zealand and Australian Ombudsman offices. At the training staff strengthened international relationships and worked through the whole investigation process from incoming communication through to the conclusion of an investigation.

### **Pentecost awareness raising**

During the final week of July 2019, my staff and I carried out awareness raising for the people of Pentecost. My team talked to three different communities in the south, central and northern part of the island about the role of the Ombudsman, why we need an Ombudsman, the Leadership Code, who are leaders in the community and how the people can help the Ombudsman ensure that the government is fair to them in all their decisions.

### **Clearing the backlog of cases**

During the month of September 2019, a review took place to manage the high number of cases that were more than two years old and were not going anywhere. The number of such cases had grown due to the high turn-around of investigators leaving the Office and passing files on to other investigators to add to their workloads.

During the month of October 2019 new measures were put into place to deal with cases that were over two years old. My Office had never worked with this focus on backlogged cases previously. A new and vigorous approach was agreed to review backlog cases to resolve them at the earliest opportunity. My Office did this by allocating investigators to physical files, and allocating one day of the week to focus on the backlog cases. The number of cases has now been reduced to a level that can be managed in a timely way.

### **Leadership awareness campaign**

During October, I carried out a leadership awareness program with leaders of the Luganville Municipal Council and the TORBA Provincial Government Council. In TORBA I was encouraged to visit the Torres Islands and talk to the leaders about the role of the Ombudsman, the purpose of the Leadership Code, and the role of the community to assist the Ombudsman hold the leaders and government institutions accountable for their decisions and actions. In discussions with the leaders in both Councils it became obvious that there is a need for

continuous dissemination of information on the laws to keep people informed of changes in laws and their duties as leaders to govern their people in their jurisdictions in accordance with the ever-changing laws, and their roles as leaders as required by the Leadership Code.

### **Ombudsman's visit to New Zealand**

I spent a week in November in the Office of the Chief Ombudsman of New Zealand in Wellington on a learning exercise to build connections. The aim of the visit was to see how that office functions in carrying out its mandate. The New Zealand Office of the Chief Ombudsman, was selected due to the high regard it is held within New Zealand and the Pacific Region and the fact that it has a very rich history as being the first Ombudsman office to be established outside of Scandinavia.

### **Office extension**

Work on the extension to the Office of the Ombudsman began on 27 December 2019 and is expected to be completed by April 2020. The current Office is cramped with no room to expand staff. The building was originally a small dwelling house originally and not designed to be an office. The extension will give my Office more space to be able to fit all staff and continue to grow.





# Background

## **Vision**

The Vision of my Office is:

*To assist and encourage Government agencies and leaders carry out their roles and functions effectively, efficiently and fairly under the laws of the Republic of Vanuatu.*

## **Mission**

The Mission of my Office is:

- *To promote good administration, efficient governance and responsible leadership in Government, and to protect the use of the official languages to benefit of the people of the Republic of Vanuatu.*
- *The function of me and my Office is to investigate, to resolve or report and, where relevant, recommend prosecution, in relation to complaints concerning the three fundamental issues:*
  1. *Injustice or maladministration in the Public Service according to article 62 (2) of the Constitution of the Republic of Vanuatu;*
  2. *Breach of the Leadership Code and Leadership Code Act following article 66 of the Constitution of the Republic of Vanuatu and the Leadership Code Act;*
  3. *Breach of official language rights following article 64 of the Constitution of the Republic of Vanuatu.*

In undertaking these functions, I:

1. Enquire into any conduct on the part of any government agency;
2. Enquire into any defects in any law or administrative practice appearing from any matter being enquired into;
3. Enquire into any case of an alleged or suspected discriminatory practice by a government agency;
4. In respect of conduct of a leader occurring on or before the 1st day of July 1998, enquire into any case of alleged or suspected breach of Chapter 10 (Leadership Code) of the Constitution;
5. In respect of conduct of a leader occurring after 1st July 1998, to conduct an investigation in accordance with Part 5 of the Leadership Code [Cap. 240];
6. Undertake mediation in accordance with section 13 of the Ombudsman's Act.

As part of my functions, I publish public reports on the organisation's website and on the paclii website ([www.paclii.org](http://www.paclii.org)) about the results of any enquiries carried out by my Office, including any findings, recommendations and opinions.

My mandate to investigate complaints is very broad including police complaints, health complaints, educational complaints and statutory body's complaints. A list of the organisations I oversee in terms of breaches of the Leadership Code and Maladministration is found at **Annexure 2**.

## **2019 Business Plan**

The 2019 Business plan sets the Objectives of the Office to enable it to undertake its functions. The objectives are:

1. Effective and Prompt investigation of complaints and reduction of backlog cases
2. Monitoring and enforcement of the use of 3 national languages
3. Progressing and effective Outreach Program to build a good working relationship with Government agencies & state institutions, Non-Governmental Organisations and general public
4. Improve management of the human, physical and financial resources of the Ombudsman's Office
5. Enforcement of governing legislations

My Office's progress against these objectives is set out below in my Report on Operations.






## Report on Operations

### Effective and Prompt investigation of complaints and reduction of backlog cases

As set out in the 2019 Business Plan, this objective was to be addressed by:

1. *Increasing and improving staff capacity; and*
2. *Reducing backlog cases.*

Strategy	Activity	Key Performance Indicator	Tracking as at end of 2019
(i) Increase & improve staff capacity	Recruit Filling Clerk, Assistant Investigator/Admin (Santo), Investigator (Santo, post# 0923)	Filling Clerk, Investigator and Assistant Investigator/Admin officers recruited by November 2019	
(ii) Reduce backlog cases	(i) Review backlog cases as priority cases	50% reduction of backlog cases by December 2019	
	(ii) Issue outstanding reports for cases warranting a report	5 reports Release by December 2019	



	(iii) Print Investigators ID cards and Business cards	ID cards and Business cards produced by April 2019	
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In 2019, my Office successfully reduced the backlog of cases to more manageable levels. Some staff received training in 2019, but efforts are on-going to secure arrangements domestically and abroad to enhance the capacity of investigators to carry out investigations and improve staff capacity.

## Complaints

At the end of December 2019, the total number of registered complaints was significantly reduced. In comparison to 2018, this year, my Office investigated and closed 148 cases, compared to 75 cases that were closed in 2018. This case reduction was made possible through the combined effort and team work of all investigators and my Legal Counsel to clear the “backlog”, and the cooperation of agencies involved in a case.

## Increasing and improving staff capacity

I continuously support staff trainings and welcome attachments and internship opportunity for students. My Office has a lack of capacity to provide in house training in proper investigation techniques and report writing. Some new investigators joined the Office without any qualification in investigations, and must learn on the job. This can be very challenging.

This year, my Office increased its capacity by employing four more staff members. I will look to continue to increase the capacity of staff and other human resource requirements of the Office.

Specific trainings are described under the section on “Staff training”.

## Reduction of backlog cases

Over a number of years, my Office has ended up with a “backlog” of cases. Backlog cases are complaints registered by my Office but have not been closed, and are over 2 years old.

The following are some reasons for the backlog of cases:

- during the term of the first Ombudsman, in 1999, the number of employees was approximately 25. This included foreign nationals who were employed to assist carry out investigations and other related tasks. In 2019 the number of investigators has dropped to 9.
- incomplete case files are sometimes passed on by investigators leaving the Office;
- investigators picking up extra files already have their own investigations to carry out and may not be familiar with the background of cases being passed on to them; and



- Some new investigators joined the Office without any qualification in investigations, and must learn on the job. There is lack of capacity to provide in house training in proper investigation techniques and report writing.

During the month of September, a new and vigorous review took place to manage the high number of cases that were more than two years old and resolve them at the earliest opportunity. An investigator was appointed by the Management Team to collect all the backlog physical files. The files were then assessed by the Legal Counsel, Director – Maladministration and Director – Leadership Code. Results of the assessment of backlog cases showed that complaints were not properly assessed to identify the breach of laws, some complaints had insufficient supporting documents and some, on the other hand, didn't fall under my Jurisdiction.

Files were then assigned to investigators. Investigators devoted each Monday to collectively review backlog cases. With the support of the Legal Counsel, the Office was able to close 148 cases at the end of 2019. This is a huge achievement. The number of cases has now been reduced to a level that can be managed.

There were 46 new complaints registered in 2019. The number was less than 2018, where 59 complaints were registered. During the final term of the first Ombudsman in 1998, 718 complaints were registered.

Despite clearing the backlog, investigations of both the new and old complaints are still hampered by the following challenges:

- a lack of cooperation by leaders and officers of government institutions whose conduct is being looked into;
- the capacity of officers to investigate complaints. Investigators do not go through a proper investigation process at the beginning of their engagement to properly prepare them to carry out investigations. Further, there is scarce capacity to provide in house investigation training to investigators; and
- the fact that officers are appointed by the Public Service Commission and report to the Commission and not the Ombudsman on employment matters. Investigations can go nowhere at times due to this relationship where it has been deemed that "you cannot investigate your own boss". Amendments to the Ombudsman Act will hopefully address this in the future.

Most cases at my Office are able to be resolved without a public report. It happens in the following ways:

- (a) during investigations the parties resolve the matter between themselves;
- (b) the complainant withdraws his or her complaint;
- (c) Complaints involving money owed, the respondent agrees and pays the money.

## **Public Reports**

In 2019, the Office of the Ombudsman issued two Public Reports. Each report is briefly summarised below.

### **Public Report on the alleged breaches of TSC Rules by SANMA Regional Education Officers**

On 10 September, my Office released a Public Report on the alleged breach of Chapter 3 Paragraph 2 of The Teaching Service Staff Rules by SANMA Regional Education Officers. There were number of persons in the Regional Office administrations involved who were delegated a task by the PEO Primary Education and the SANMA Provincial Education Officer(s) to complete the Annual Confidential Reports in respect of Mr Loress Ninisa. The matter was shelved for over a period of 20 years.

Mr Loress Ninisa complained to the Ombudsman on the failure of the relevant officials to ensure his annual confidential report is completed in order to determine whether he is entitle to an increment owed to him since 2004. He was permanently employed by the Teaching Service Commission in 1996.

The obligation falls under the Ministry of Education and the Teaching Service Commission's officials to ensure all their employees performance appraisals and entitlements for, both temporary and permanent are compensated in compliance with Chapter 3 paragraph 2 of the Teaching Service Staff Rules. My report outlined the failure of the responsible officers within the Ministry of Education and the Teaching Service Commission. They seriously failed to ensure that the annual confidential report of Mr Ninisa is being completed within a reasonable time, resulting in an unreasonable delay for over a period of 20 years.

In my report, I recommended that:

- ✓ Mr Socopoe Mele, Zone 1 Curriculum Advisor in SANMA Province, immediately compiles a confidential report on Mr. Ninisa's teaching performance and forward it to the Teaching Service Commission at the end of the year to the Director of Primary Education to approve for salary increment.
- ✓ The Teaching Service Commission sends an apology to Mr. Lorres Ninisa for neglecting to instruct the respective educational authorities to effectively comply with the Teaching Service Staff Rules.
- ✓ The Ministry of Education must make sure that a report on each SANMA Province primary school teacher, in particular Zone Curriculum Advisor, is completed annually and submitted to the Teaching Service Commission.

- ✓ The Provincial Education Officers, Regional Education Officers or Zone Curriculum Advisors must understand their roles and functions, familiarise themselves at all times to give effect to each.
- ✓ The Teaching Service Organizational Structure must be reviewed to upgrade the positions of Regional Education Officers and Zone Curriculum Advisors to become Public Service Commission posts.

### **Ombudsman recommends review of VMF Fire Services to include Fire Service Legislation**

On 31 March 2014 a fire burnt down a dwelling house at Anambrou Area at approximately 4.30 in the morning. Although the VMF Fire Service was given the alert they failed to respond and said that they had no petrol. The fire brigade later arrived at the scene but the house had already burnt down. The incident prompted the Office of the Ombudsman to carry out an investigation.

Lieutenant Bomma Avia, the officer in charge of the VMF Fire Service was contacted by letter dated 19 February 2016. Lieutenant Bomma replied on 15 June 2016 stating that the fire service brigade could not move to the scene because they had no funds to pay for petrol.

He further stated that his department does not control the money but the office of the Commissioner does. This is one example of the many fire incidents that the VMF Fire Service failed to take control of. While the event concerned occurred way back in 2014, the problems I found are, that given the lack of or delayed receipt of funds, the VMFFS could not fully perform its duties to the required expectations. I recommended that as the services of the VMFFS become more frequent, sufficient funds would need to be allocated for the VMFFS Unit and furthermore, legislation should be established to take care of the Firemen's safety and other matters concerning Fire Service.

In February 2019, the Ombudsman issued a public report recommending a review of the Vanuatu Mobile Force Fire Services to enact a Fire Service legislation to cater for the safety of the firemen and sufficient funds to carry out its functions.

This public report highlighted factors that may have contributed to the ineffective and/or delayed services delivered by the Vanuatu Mobile Force Fire Services (VMFFS).

### **Defective laws**

Section 36 (2 (d)) of the Ombudsman Act, [Cap. 252] provides that, 'A report may deal with all or any of the following:

- (d) any defects which appear to the Ombudsman to have been caused wholly or partly by defective legislation or laws of the Parliament;'



Defective law refers to:

1. A gap where a piece of law is failing to address an arising situation or circumstances; and
2. One that fails to comply with relevant procedural or jurisdictional requirement therefore rendered it legally invalid as a result.

Instances where a law is defective arises in two forms; (a) caused by the conduct of a leader or a government agency, a conduct that is accepted as breaches of the law making it defective, and (b) a piece of legislation that enacted for a purpose but fails to fully achieve its purpose due to inadequate provision in the law itself.

Below is the list of defective laws identified often through the complaints received, investigated and reported by the Ombudsman's Office that amounts to maladministration:

1. Teaching Services Act NO. 38 of 2013


In 2019 the Office of the Ombudsman received a number of complaints on issues of Teachers' payment of severances entitlements when terminated. There was a complaint received on the issue of reimbursement whereby, a teacher properly obtained a study leave at his own expenses (TSC), went on a vacation and upon completing it, the Teaching Services Commission refused to refund his expenses. The Education authorities defected in fully implementing the Education Act, and the Teaching Services Commission to full fill the purposes of the Acts.

2. Leadership Code Act;


The purpose of the Leadership Code Act is to ensure leaders conducts and behaviours are within the laws at all times as well as holding them accountable for their mistakes. The gap in that piece of law is to give protection to the Ombudsman when conducting investigations on the leaders' misbehaviours.

## Monitoring and enforcement of the use of three national languages

As set out in the 2019 Business Plan, this objective was to be addressed by promoting awareness on the importance of multilingualism.

Strategy	Activity	Key Performance Indicator	Tracking as at end of 2019
Promote awareness on importance of multilingualism	(i) Draw a baseline survey	Surveys conducted by July 2019 to all public official via Government email	



	(ii) Release of 2017 and 2018 multilingualism report	2017 and 2018 Multilingualism Report issued by March 2019	
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In 2019, the Office of the Ombudsman continued to closely monitor and enforce the use of the three (3) official languages in the Public Services. The Senior Language Rights Officer on behalf of the Office of the Ombudsman make sure that all government services to the public must remain in all 3 official languages which are Bislama, French and English. The government services include advertisements, notices, memorandum, meteo alerts or warnings, newsletters etc. As usual, the Office of the Ombudsman understand that it is a difficult task to achieve for government agencies but it is a constitutional requirement to make available all services to all citizens. Overall, the Office of the Ombudsman is satisfied with the progress made by government agencies this year in complying with the provisions of language rights even though few of them needed to be reminded of their non-compliance in some of their publications. The Ombudsman continue to make the same recommendations mentioned in previous Special Reports on Multilingualism to the Prime Minister and Members of Parliaments for their responses.

This year 2019, the Ombudsman conducted an online survey about the use of the three official languages. The targeted audience were all public servants within Government line Ministries & Departments including employees of all government statutory bodies and local authorities.

The purpose of the survey is –

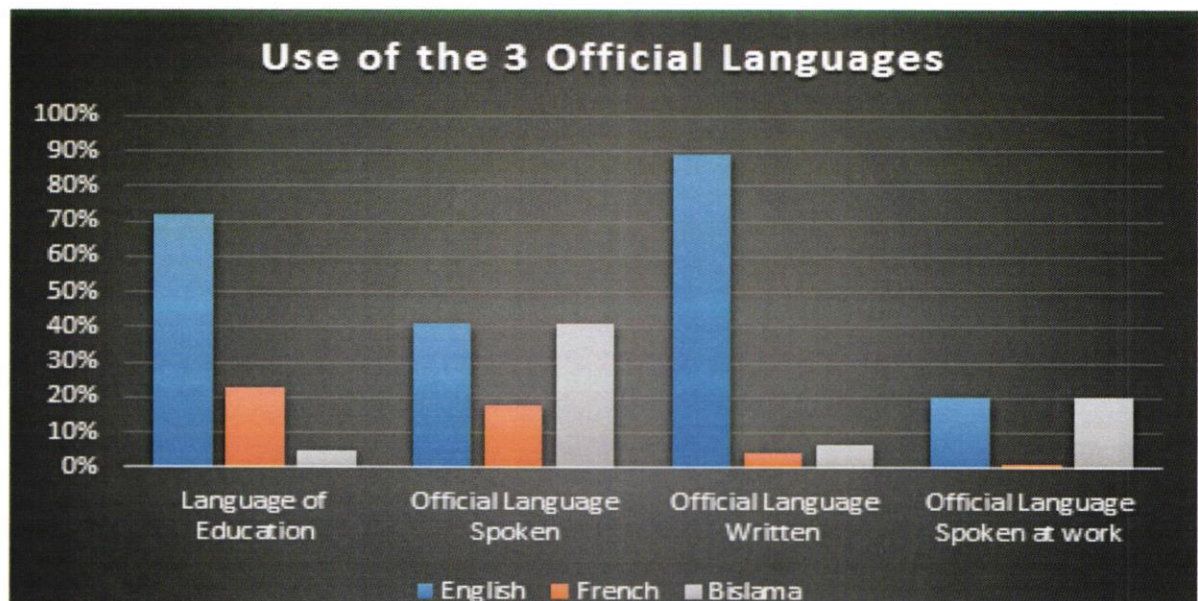
- a) to get feedback from public servants about the use of the three (3) official languages of Vanuatu in their respective work place;
- b) to show how the language used regularly by public servants can have an impact on the language used in their publications in their respective offices;
- c) to indicate why many government agencies do not comply with language rights provision; and
- d) to indicate why many government agencies do not use the services of the Language Services Department to translate their publications.

The survey was done on line and could only be accessed through the government network. A total number of 107 public servants participated in the survey.

This is a very small number compared to the number of public servants employed in the Public Service and other Government institutions targeted in this exercise. However, the response was poor. The survey questionnaires required participants to answer questions around these three main areas:

- a) the language used at work place;
- b) the documents used at work place; and
- c) provision on Language Rights.

The graph below shows the language that is being used during a person's education journey up to the workforce. The graph shows that the English language is the predominant official language in the public services despite having some French speakers as head of Government institutions.



### Recommendations

I make the following recommendations based on this years' findings and finding of previous years. I urge the Prime Minister and Parliamentarians to act on those recommendations mentioned in the Ombudsman 2015, 2016, 2017 and 2018 Language Rights Reports as well.

1. That all agencies of the administration of the Republic of Vanuatu including the Parliamentary Services, the Judiciary, Ministries, Departments, statutory bodies and other government agencies, including the government electronic media, do comply fully with the requirements of Article 64(1) of the Constitution.
2. That the Office of the Prime Minister as the Ministry directly responsible for the Language Services Department and the effectiveness of its operation urgently allocate to that Department as a matter of priority, such budgetary contribution and staff and material support as it requires to provide quality and timely language services to all agencies and institutions of the administration of the Republic of Vanuatu.
3. That each ministry provides appropriate budgetary support for at least one officer fluent in all the three official languages to be posted in the ministry and or in their respective departments and agencies as a means to helping those ministries, departments and agencies meet the requirements of Article 64(1) of the Constitution for the benefit of Vanuatu citizens and general members of the public.
4. That it is the duty and responsibility of heads of departments and agencies (Directors General, Directors, CEOs, Managers and Supervisors) to direct and ensure that all their publications and written communications are made in the three official languages.










5. That all the service commissions of the Vanuatu administration, namely the Public Service Commission, the Judicial Service Commission, the Police Service Commission, and the Teaching Service Commission, as head employment institutions of all services of the administration of the Republic of Vanuatu to notify all departments and agencies under their respective authorities to strictly comply with the requirement of Article 64(1) of the Constitution.
6. That each government agency amends or revise its policies to meet the requirement of Article 64(1) of the Constitution and not continue with the practices and “customs of doing things” which has been the norms in most of the public institutions. Furthermore, amendments should be made to the PSC Application form and particularly the “recruitment process check list” in order to insist on the usage of the 3 official languages in government agencies publications.

## Progressing and effective Outreach Program to build a good working relationship with Government agencies & state institutions, NGOs and general public

As set out in the 2019 Business Plan, this objective was to be addressed by:

1. *Continuing to progress Awareness Outreach Programs*
2. *Publishing and promoting the Office of the Ombudsman*
3. *Ensure timely reporting*

Strategy	Activity	KPI	Tracking as at end of 2019
(i) Continue to progress Awareness Outreach Programs	(i) Awareness via SMS services	No of SMS sent & No of Recipients	
	(ii) Conduct outreach program to Torba, Malampa, Panama and Tafea	4 outreach programs conducted by End of November 2019 to each of the identified province	
(ii) Publish & promote the Ombudsman Office	(i) Create a Drama play and publish in Social Media, and Website	one Drama play produced	
	Produce Annual Report to the Prime Minister	Annual Report completed & submitted to PMO	
	(ii) Launch Ombudsman's Office Official Website	Website Launched by End of February 2019	

	(iii) Awareness program through Radio	3 Radio Slots produced by December 2019	
(iii) Building Community Partnership Program	Produce Brochures and conduct Awareness to Leaders	Brochures and pamphlets printed June 2019 and No: of Meetings held with Leaders	

## Continuing to progress Awareness Outreach Programs

### Online outreach

The Ombudsman's Office has a website that was launched in July 2019. The Purpose of establishing this website is to:

- (a) showcase to the wider community work being carried out by the Ombudsman; and
- (b) educate the readers on the role of the Ombudsman; and
- (c) educate the readers on their duty to help leaders work within the laws at all times; and
- (d) educate the readers on the Leadership Code under the Constitution.

### Outreach in the community

In April 2019, my Office, in collaboration with the Director and staff of the Department of Correctional Services, successfully carried out a visit to all the Correctional Detention Centers in Port Vila. The visit came about after a two-day workshop conducted by the New Zealand Ombudsman Office in late March on Prison Inspections. The Ombudsman Team visited the High Risk Facility, the Medium Risk / Remand facility as well as the Low Risk facilities for both men and women. The purpose of the visit was to receive any complaints and concerns of detainees and staff members employed at the Correctional Detention Centers. Following the visit, concerns and complaints were raised with the Director of Correctional Services Department, Mr Johnny Marango, through a report that was compiled by the team. The Ombudsman Office is happy that Director Marango accepted the report and assured them that he would follow up on the issues raised in the report.

During the final week of July, me and my staff carried out awareness raising for the people of Pentecost. My team talked to three different communities in the south, central and northern part of the island about the role of the Ombudsman, why we need an Ombudsman, the Leadership Code, who are leaders in the community and how the people can help the Ombudsman ensure that the government is fair to them in all their decisions.

### Outreach with government leaders and state institutions

On the 10th of April 2019, my office completed a Leadership Code Awareness with the newly appointed Director Generals for 13 Government Ministries of the Republic of Vanuatu. The



Leadership Code Awareness was part of the Induction Program of the 13 Director Generals that was organized by the Public Service Commission. The presentation was welcomed by most of the Director General's present in that for most of them, it was their first time to listen to such a presentation.

On 7 May 2019, my Office delivered a Leadership Code Awareness presentation to the newly appointed Directors from over 20 Government Departments. It was part of the Induction Program for the Directors that was also organized and staged by the Public Service Commission.

In the month of July during Public Service Day, presentations were made to heads of Ministries and Department of government of their duty to uphold the Leadership Code and comply with the rule of law in all decisions made and actions taken to ensure that good governance is practiced at all times.

On 12 July 2019, Acting Ombudsman Alain Wai Molgos, and the Acting Police Commissioner Colonel Robson Iavro, signed a memorandum of understanding (MOU) for both Institutions to work together in certain investigations and also facilitation by way of exchange of information between both agencies. The MOU combines the specific functions and objectives of both agencies as mandated by Law and will also allow both parties to exchange information on investigations conducted and also to ensure the two offices do not duplicate unnecessarily investigations into the conduct of Leaders and other Government Agencies and publicizing wherever appropriate, the accountability arrangements for Vanuatu Government agencies and Leaders. This is the first time since establishment of both agencies to have such an MOU in place and the heads of both agencies are looking forward to working together under the terms and conditions of this MOU.

During the month of October 2019, I had discussions with leaders in the Luganville Municipal Council and the TORBA Provincial Council on the role of leaders to uphold the Leadership Code in all their dealings as elected leaders representing their people. In their role as leaders to avoid situations of conflict of interest to grow the confidence of their people in their government and the leaders themselves. Different conflicting situations were discussed to help the leaders.

In my first few months in the Office attempts were made to meet with leaders in government with the aim to discuss the role of the Ombudsman and establish some protocols with leaders to facilitate the work of the Ombudsman. The Ombudsman is at the forefront of efforts to ensure good governance is actually practiced by leaders and government institutions. It is of essence that leaders and government institutions uphold the principles of the rule of law at all times.

I called on leaders of government institutions to find time to sit down with the Ombudsman and discuss ways to improve the public sector accountability for its performances. Cooperation with all heads of Government Ministries and other institutions for easy access and flow of information is essential to assist the Government comply with its legal duties. The Ombudsman made a curtesy call on the Head of State in December where they held mutual discussions on the capacity of the Ombudsman to carry out its roles under the Constitution and the

Leadership Code Act and other matters regarding the operations of the Office of the Ombudsman. Another call was made on the then, Minister of Foreign Affairs, where we had similar discussions on the role of the Ombudsman. The Minister encouraged the Ombudsman to carry out his functions without fear.





Efforts to meet with other Ministers, including the Minister responsible for the Ombudsman (the Prime Minister) failed to eventuate due to their busy schedules. It is very unfortunate that I was unable to meet with the Prime Minister, as it is of essence that the Prime Minister finds time to discuss matters important to the effective functioning of the core function of the Ombudsman. There are structural issues with the Office of the Ombudsman that needs urgent attention to enable the Ombudsman to perform its functions properly and effectively. It is my sincere wish that the incoming Prime Minister will find time to meet the Ombudsman over matters pertinent to the effective functioning of the Ombudsman.


## Improve management of the human, physical and financial resources of the Ombudsman's Office

As set out in the 2019 Business Plan, this objective was to be addressed by:

1. Prepare MBC 2020
2. Ensure staff are appropriately trained and seek funding from donors for investigative trainings
3. Ensure staff are appropriately appraised
4. Review of Organisational Structure

Financial information about my Office for the 2019 period is **annexed** to this Report.

Strategy	Activity	KPI	Tracking as at end of 2019
(i) Prepare MBC 2020	(i) Submit budget & budget narratives	2020 Budget input and presented to the MBC BY August 2019	
	(ii) Draft 2020 Annual Business Plan	Draft Business Plan produced by End of July 2019	
(ii) Seek funding from Donors for Investigative Trainings	Liaise with international bodies affiliated to and others	No of Training Secured for investigators	
(iii) Ensure staff are appropriately appraised	Appraisals completed when due in August 2019 and End of Year Assessment by January 2020	Appraisal completed and Submitted to PSC	

(iv) Ensure retirees receive their entitlements	Liaise with Finance Department to sort out 2019 retiree's severance packages	Severance package received by December 2019	
(iv) Extension of Ombudsman Haus	Liaise with MJCS Project Coordinator and Central Tender Board to facilitate the extension of the Ombudsman Haus	Head Office extended by July 2019	
(v) Review of Organisational Structure	Liaise with all team leaders and PSC to review the current Organisational Structure	Ombudsman Organisational Structure reviewed and implemented by December 2019	

### Staff training

A number of trainings were attended by officers of the Office of the Ombudsman in 2019:

Description of Training/Workshop/Course/Conference	Date	Training Provider
Prison Inspection Training	26 & 27 March 2019	New Zealand Ombudsman's Training & UNDP Trainers: Dr Ruth Nichols, Mr Tasi Lagolago, Mrs Tracey Harlen
First Aid Training with Red Cross	28 March 2019	Vanuatu Red Cross Society
Eos, HROs and M&E Officers Induction	21 & 22 May 2019	VIPAM, PSC
2020 Budget and VBMS Training	18 June 2019	Department of Finance Treasury Division
Policy Development training	16 to 18 June 2019	Ministry of Justice and Vanuatu Law Reform Commission
Excel Training	10 to 11 July 2019	Ministry of Justice & Community Services
Investigator Training	30 July to 1 August 2019	IOI & Office of the NZ Chief Ombudsman
Super Users training	Q1 & Q2 2019	Stretem Rod Blong Jastis mo Sefti



Of note, in March 2019, ten (10) of my investigators and five (5) government staff attended training by the New Zealand Office of the Ombudsman on investigating prison conditions and prisoner complaints. The training focused on good investigation techniques into Vanuatu prisons, available options for dealing with complaints by the prisoners, and addressing maladministration or misconduct of prison staff. The training also covered methods for inspecting places of detention, such as prisons, how to make subsequent recommendations, and how to make constructive change in prison standards and administration. The workshop also provided an opportunity for my Office to develop internal capabilities and international networks.

Efforts are on-going to secure arrangements domestically and abroad to enhance the capacity of investigators to carry out investigations and improve staff capacity, but this continues to be an area where my office lacks capacity.

Apart from trainings, some students were also placed with the Office of the Ombudsman for internships, work attachments and holiday jobs. These students are:

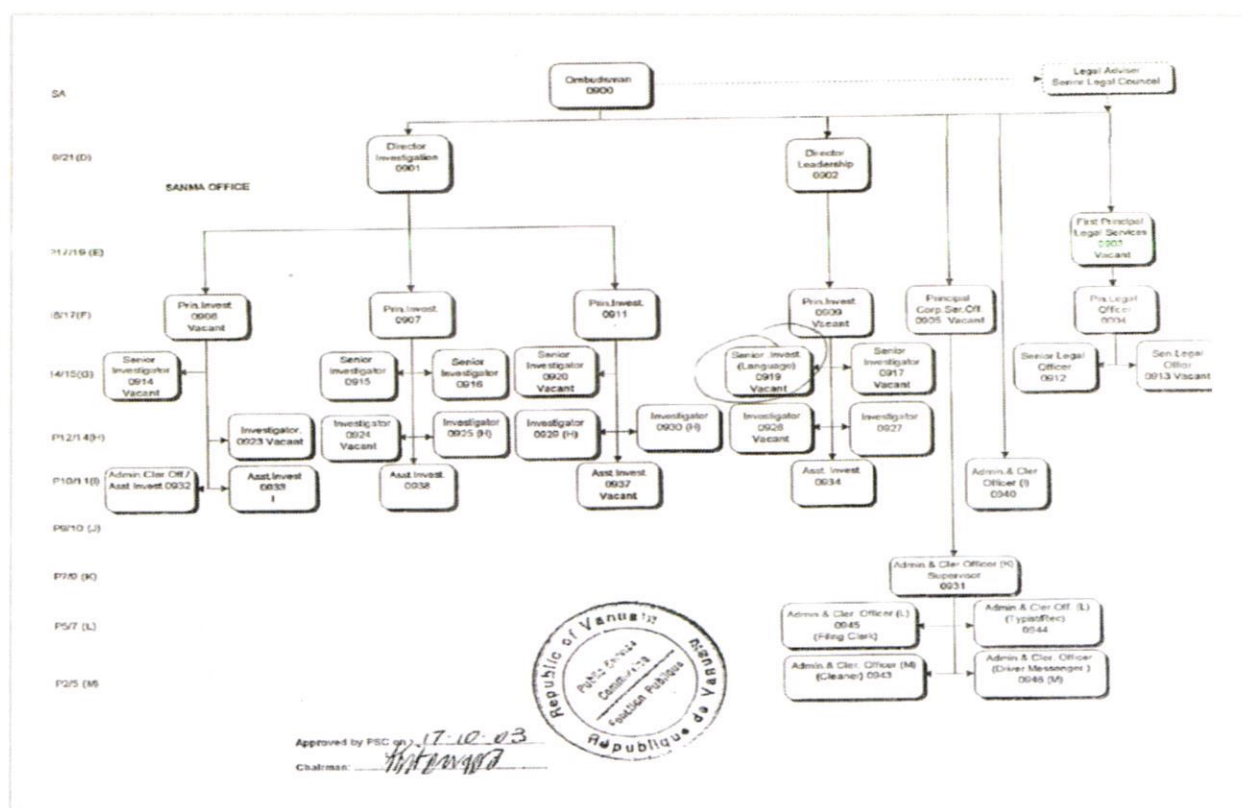
Name of School	Attachment Period
Universite de Toulouse 1 Capitol	24 June to 09 August 2019
Youth Challenge	02 October to 31 December 2019
Youth Challenge	02 October to 29 November 2019
Malapoa College	09 December 2019 to 31 January 2020
Vila North School	09 December 2019 to 31 January 2020

## Review of organisational structure

As of the date of this report the internal processes are those created during the term of the first Ombudsman and are in great need to improve and modernize them to current standards. The Amendment of the Ombudsman Act in December this year vesting the powers in the Ombudsman to hire and fire its employees also comes with responsibilities to look after the employees and provide the necessary tools and guidelines to assist the employees carry out their functions.

## Organisational Structure

The Office of the Ombudsman still operates with the approved organisational structure from 2003. This Structure consist of 36 positions altogether which only 17 positions were occupied and the remaining 19 positions still remains vacant. Below is the Organisational Structure of the Office of the Ombudsman.



This year 2019, our Office successfully recruited 5 vacant positions including the sixth Ombudsman of the Republic of Vanuatu. The following positions were filled this year:

Name	Position	Recruitment date
Managisu Malas	Driver/ Messenger	12 April 2019
Eric Csiba	Principal Legal Officer	15 March 2019
Lydia Csiba	Investigator	20 May 2019
Hamlison Bulu	Ombudsman (6th)	10 July 2019
Richard Michael	Investigator	04 November 2019

Towards last quarter of the year, two (2) female officers also retired after reaching the approved retirement age of 55 years.

### Staff rotation

In June and July, three Principal Investigators of the Office of the Ombudsman were involved in a 2 months rotation exercise in Santo; Principal Investigator Santo Charley Johnsen, Principal Investigator LCI Darval Simon and Principal Investigator Maladministration Dorah Samuel.




This rotation exercise was an initiative to have the Santo Officer placed in the Vila office to conduct follow ups and meetings with few organizations here in Vila for a period of two months. During his placement in Vila, the two principal Investigators in Vila were to take one month each to relief him in Santo.

The outcome of this exercise was excellent! Santo Office was able to review and close a quite number of cases and Principal Investigators placed in Santo were able to supervise the office operation and complete activities allocated to them for this specific period.

## Enforcement of governing legislations

As set out in the 2019 Business Plan, this objective was to be addressed by drafting a bill and presenting it to parliament. My Office achieved this objective in 2019.

Strategy	Activity	KPI	Tracking as at end of 2019
Prepare Instruction and presented to the Parliamentary counsel	Draft Instruction for Review of the Governing Legislations	Instructions Submitted to the Parliamentary Counsel by July 2019	

In 2016, The Council of Ministers (COM) has approved a COM paper to review the Ombudsman Act, the Leadership Code Act and the Constitution. After many attempts from the outgoing Legal Counsel and Ombudsman, this exercise was carried out in 2019 under my supervision by my Legal Counsel and Management Team. The Amendments was were debated in Parliament during the last sitting of the 11th Legislature and was approved unanimously in December 2019. This is a great achievement and will lead to changes that better recognise my office as a truly independent watchdog and to strengthen the role of the Ombudsman. The main features of the amending Act are as follows:

- vest the power to appoint staff of the Office of the Ombudsman in the Ombudsman and removed the authority from the Public Service Commission;
- to assist the staff of the Office of the Ombudsman to better perform their functions under the Act;
- empowers the Ombudsman to appoint a Deputy Ombudsman to be responsible for Leadership Investigations;
- empowers the Ombudsman to appoint a Deputy Ombudsman to be responsible for Maladministration investigations;
- empowers the Ombudsman to appoint other staff necessary to assist the Ombudsman perform his functions;



- empowers the Ombudsman to apply to the Court for temporary protection orders to protect his staff from personal injury or harassment whilst carrying out investigations.

## Additional functions of my office

### Prison Inspection

The Office now carries out inspections of correctional centres to determine whether the living conditions of the detainees are good and healthy and whether the detainees are taken care of properly according to the UN Human Rights Convention and domestic laws.

### UNITED NATION CONVENTION AGAINST CORRUPTION review of Cameroon

The Office of the Ombudsman took part in the study in Cameroon to determine whether Cameroon complies fully with UN Convention Against Corruption.

### UNITED NATION CONVENTION AGAINST CORRUPTION review of Guyana

The Office further took part in another study in Guyana.



## Annexure 1: Financial information

### Annexure 1: Financial information

#### Budget allocation

The Budget allocated to the Office of the Ombudsman for the financial year 2019 was VT 60,391,859. This budget was shared between Payroll and Operations:

Payroll – VT 45,907,608

Operations – VT 14,484,251

The chart below shows the budget allocation by cost centres for both Payrolls and Operations.

Budget Code	Cost Centre Name	Payroll Budget Allocation	Operational Budget Allocation	Total
03AA	Ombudsman's Office & Corporate Services	20,082,752	8,196,091	28,278,843
03AB	General Complaint Investigations	10,492,440	2,400,000	12,892,440
03AC	Leadership Code Investigations	10,876,616	2,500,000	13,376,616
03BA	Ombudsman's Santo Office	4,455,800	1,388,160	5,843,960
	<b>Total</b>	<b>45,907,608</b>	<b>14,484,251</b>	<b>60,391,859</b>

### Approved New Project Proposal (NPP)

This year, the Office of the Ombudsman was fortunate to receive an approved amount of VT 12,012,000 requested for the Construction of the Office Building. This budget was approved by the Ministerial Budget Committee as a one-off NPP.

However, due to the Central Tender Board lengthy process these funds were not spent in 2019. It was later forward to the Parliament to be rolled over to the New Year 2020 in order for the Office to finally use it for its purpose.

The total budget for the Office of the Ombudsman in 2019 was then increased to VT 72,403,859.

## Budget Expenditures

Office of the Ombudsman - 2019 Expenses Summary										
Code	Description	Payroll Expenses			Overhead Expenses			Total Expenses		
		Total Budget	Total Expenses	Remaining Warrant	Total Budget	Total Expenses	Remaining Warrant	Total Budget	Total Expenses	Remaining Warrant
M01	Constitutional Agencies									
CCAA	Planning, Management and Investigations									
03AA	Office of the Ombudsman	19,798,862	18,840,940	957,922	22,872,190	10,777,891	12,094,299	42,671,052	29,618,831	13,052,221
03AB	General Complaint Investigations	10,187,231	10,177,989	9,242	2,400,000	2,400,000	-	12,587,231	12,577,989	9,242
03AC	Leadership Code Investigations	9,323,332	9,519,250	(195,918)	2,500,000	2,500,000	-	11,823,332	12,019,250	(195,918)
03BA	Ombudsman Santo Office	3,934,084	3,819,390	114,694	1,388,160	1,388,160	-	5,322,244	5,207,550	114,694
CCAA	Planning, Management and Investigations	43,243,509	42,357,569	885,940	29,160,350	17,066,051	12,094,299	72,403,859	59,423,620	12,980,239
	REPORT TOTAL	43,243,509	42,357,569	885,940	29,160,350	17,066,051	12,094,299	72,403,859	59,423,620	12,980,239

This year, there was a total of VT 12,980,239 unspent. This figure is made up of:

- VT 12,012,000 that was allocated as one off NPP for the construction of the office building. Because the construction work will only start in 2020, this fund rolled over to year 2020.
- VT 968,239 from payroll fund.

The Ombudsman Office used up all its operation budget for the year 2019, as set out in more detail below.

## Major Operating Expenses of year 2019

No.	Account Code	Account Descriptions	Amount (VT)
1	8EVA	Vehicle - Additional Vehicle	5,565,221
2	8CZV	Value Added Tax	1,869,635
3	8CUE	Electricity Utilities	1,142,870
4	8CAB	Subsistence Allowances	1,037,000
5	8CTL	Local Travel	1,008,419

The above table shows that the top 5 operating expenses of year 2019. The highest one being additional vehicle followed by value added tax and electricity utilities.

This year, the Office had its newly purchased vehicle damaged in the Office garage in July 2019. The other official vehicle of the Ombudsman, was also old and encountered a lot of parts replacement therefore needed a new vehicle. Both vehicles were therefore traded for a new Isuzu D-Max Double Cabin and a new Nissan X-Trail vehicle for Administration/ Investigation purposes and for the Ombudsman.



In 2019, the Office also organized awareness and outreach programs and few overseas trips that contribute to increased expenses on subsistence allowance and local travels. Below is a table that shows the list of trips undertaken in 2019:

Date	Description of Trip
June to July 2019	Staff rotation between the Principal Investigator Santo and two Principal Investigators in Vila
Jul-19	Awareness program to Central and North Pentecost
Jul-19	Administration trip to Santo Office
Oct-19	Awareness Program in Lenakel Tanna During PSC day
Oct-19	Awareness Program in Lakatoro Malekula during PSC day
Oct-19	Awareness during Sanma Municipal Councillors and to Torba Provincial Government Council meeting
Nov-19	Principal Investigator Santo called to Vila and returns after a month with Senior Investigator
Nov-19	Ombudsman learning trip to the New Zealand Chief Ombudsman Office, Wellington, New Zealand



## Annexure 2: Ombudsman's overseer role

### List of all Government Agencies that Ombudsman has the jurisdiction to investigate:

- |  |   |
|--|---|
| 1. Parliament of the Republic of Vanuatu               | 15. State Law Office                                |
| 2. Prime Minister                                      | 16. Auditor General                                 |
| 3. All Ministers of government                         | 17. Reserve Bank of Vanuatu                         |
| 4. Leader of Opposition                                | 18. National Bank of Vanuatu                        |
| 5. All Members of Parliament                           | 19. Vanuatu National Provident Fund                 |
| 6. Public Service Commission                           | 20. Vanuatu National Cultural Council               |
| 7. Police Service Commission                           | 21. Vanuatu Broadcasting and Television Cooperation |
| 8. Vanuatu Mobile Force                                | 22. Vanuatu National Tourism Office                 |
| 9. Electoral Commission                                | 23. Vanuatu Financial Services Commission           |
| 10. Vanuatu Post                                       | 24. National Housing Corporation                    |
| 11. Biosecurity  | 25. Vanuatu Malvatumauri Council of Chiefs          |
| 12. Vanuatu National Statistics Office                 | 26. Vanuatu Teachers Education VITE                 |
| 13. Department of Labour                               | 27. Financial Intelligence Unit                     |
| 14. Office of the Government Chief Information Officer |   |

28. National Curriculum and Assessment Board
29. Teaching Service Commission
30. Vanuatu Commodities Marketing Board
31. Vanuatu Qualification Authority
32. National Sports Commission
33. 6 Provincial Government Councils
34. Municipal Councils (3)
35. Vanuatu Agricultural Development Bank
36. Vanuatu Telecommunications Radio Communications and Broadcasting Regulator
37. Air Vanuatu
38. Airports Vanuatu Limited
39. Metenesal Estates Limited
40. Vanuatu Livestock Development Limited
41. Northern Islands Stevedoring Company Limited (NISCOL)
42. Vanuatu Investment Promotion Authority
43. High Commissioners of Vanuatu
44. Trade Commissioners of Vanuatu
45. Agriculture College
46. National Education Advisory Council
47. Provincial Education Offices (6)
48. Utilities Regulatory Authority
49. Office of the Maritime Regulator
50. Customary Land Management Office
51. Government Central Tender Board
52. Expenditure Review Committee
53. Chairman of Interchange Limited (Chief Executive Officer & Managing Director at
54. Interchange)
55. Members of Board of Director of Ifira Ports Development Services (representative of government only)
56. Vanuatu Abattoir Limited (to be confirmed)
57. Vanuatu Chamber of Commerce & Industry Council
58. Asset Management Unit
59. Vanuatu Community Parole Board Members (to be confirmed)
60. National Scholarship and Training Board
61. Foreign Service Board
62. Maritime College Board
63. National University of Vanuatu Council
64. Public Service Disciplinary Board
65. Tripartite Labour Advisory Council
66. Vanuatu Law Commission
67. Government Remuneration Tribunal (GRT) Board
68. Public Land Transport Authority
69. Law Council Disciplinary Committee
70. Citizenship Commission
71. Vanuatu Project Management Unit
72. Vanuatu Intellectual and Property Rights Office
73. Traditional Knowledge and Expressions of Culture Authority