



TRINIDAD & TOBAGO
OFFICE OF THE OMBUDSMAN

2010

3rd
ANNUAL REPORT



OFFICE OF THE OMBUDSMAN OF TRINIDAD AND TOBAGO

P.O. Box 886, 132 HENRY STREET, PORT OF SPAIN.

TEL. NO: 1(868) 624-3121-4 FAX NO: 1(868) 625-0717 e-mail: feedback@ombudsman.gov.tt

20th October, 2011

Honourable Speaker
Office of the Parliament,
Tower D, Levels G-7,
Port-of-Spain International Waterfront Centre,
1A Wrightson Road,
Port of Spain.

Dear Mr. Speaker

I have the honour to present the *Thirty-Third Annual Report* of the Ombudsman for the period *January, 2010* to *December, 2010*.

The Report is submitted pursuant to Section 96 (5) of the Constitution of the Republic of Trinidad and Tobago.

Yours faithfully,

Lynette Stephenson, S.C.
OMBUDSMAN
Republic of Trinidad and Tobago





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“Having regard to our plural society, it is necessary to ensure that our government institutions function efficiently and effectively.”

Lynette Stephenson, S.C.
OMBUDSMAN
Republic of Trinidad and Tobago



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OMBUDSMAN'S OVERVIEW

1.

OVERVIEW

The Thirty-third Annual Report on the performance of my functions as Ombudsman of Trinidad and Tobago covers the period **January 1, 2010 to December 31, 2010**. During that period 1463 written complaints were received. I had no jurisdiction over 256 of these complaints. Therefore 1207 complaints were investigated, of which 645 were resolved.

The Tobago Regional Office recorded a total of 173 complaints in 2010.

39 complaints were received under the **Freedom of Information Act**, Chapter 22:02

Complaints were recorded against the Ministries/Departments/Statutory Authorities listed below:

- **Local Government Bodies**
- **Tobago House of Assembly**
- **Housing Development Corporation**
- **Ministry of Works and Transport**
- **Ministry of Education**
- **Ministry of Health**
- **Regional Health Authorities**
- **National Insurance Board**
- **Ministry of Social Development**
- **Ministry of Food Production, Land and Marine Resources**
- **Town and Country Planning Division**
- **Trinidad and Tobago Police Service**
- **Trinidad and Tobago Prison Service**
- **Ministry of Foreign Affairs**

Complaints against the Water and Sewerage Authority and Trinidad and Tobago Electricity Commission were referred to the **Regulated Industries Commission**.

For the sake of clarity in relation to the discharge of my constitutional duties, I believe it is useful to outline some of the procedures followed in the operation of the Office.

In addressing complaints, the emphasis is on informality in resolving disputes between complainants and government agencies. Because of this, the work of the Office appears to be in the nature of mediation or conciliation. However, it is important to note that the Office must carry out important fact-finding, having regard to its role in promoting public accountability.

When a complaint is made to my Office I am obliged to launch an investigation as soon as possible. However, before proceeding with an investigation, the facts of the complaint are examined to determine whether the matter falls within the scope of my jurisdiction. As a general rule, complaints are **not investigated** where:

-
- **The complainant is unable to show any personal interest in the subject matter**
 - **The facts giving rise to the complaint occurred more than twelve (12) months ago**
 - **There is no established evidence or justifiable reason for the complaint**
 - **The matter is prohibited under the Third Schedule of the Constitution of the Republic of Trinidad and Tobago**

When it is necessary to conduct an investigation the government agencies/departments concerned are required to provide me with explanations and/or submit relevant data/documentary evidence. In the course of an investigation, I may summon the complainant and the respective public officers to a hearing at my office to have the matter dealt with and resolved.

In circumstances where documentary evidence regarding the merits of the complaint is lacking, investigators are dispatched to the government departments concerned to examine and retain copies of pertinent documents. Under such circumstances public officers at these departments are obliged to co-operate with integrity and assist with the investigation.

Complaints are addressed impartially. The Ombudsman does not act as an advocate for the complainant. Therefore when, after an impartial investigation of a complaint, it is shown that the complaint cannot be sustained by the facts, the complainant is so informed. If it is determined from an investigation that the complaint is justified, it is the duty of the Ombudsman to make recommendations for corrective action to the relevant agency.

The Office of the Ombudsman does not have the authority to compel an administrative agency to accept or implement its recommendations. Therefore, while the Office performs solely in an advisory capacity, it provides a direct and informal avenue for the mediation of public grievances as well as a valuable tool for enhancing the relationship between government agencies and the general public. Such a role augurs well for the general improvement of public administration.

Complaints to my Office may be disposed of in the following manner:

- **if a complaint falls outside of my jurisdiction – it is referred to the competent authority or the complainant is advised as to an effective course of remedial action**
- **Recommendations are made to Heads of Government Departments for system/policy improvements**
- **In certain cases, Special Reports may be submitted to Parliament**

If, based on the findings of my investigations, it is concluded that there is a fault in administration on the part of a government agency/department, a recommendation is made to the Permanent Secretary to have the complainant's grievance resolved. This recommendation is in the form of reasonable corrective measures or advice as to how to address such issues directly or through improvement in policies, practices and procedures.

Before such recommendations are made an opportunity is provided to the government departments concerned and the complainant to present their opinions on the findings of the investigation and if necessary submit further supporting evidence/documents.

Given the nature of the constitutional role of the Ombudsman, Permanent Secretaries and Heads of State Agencies are required to respect the advice or opinions proffered by the Ombudsman. These officials are expected to respond within thirty (30) days to the Ombudsman regarding the department's proposed action in implementing recommendations towards the resolution of complaints.

JURISDICTION

Section 93 of the Constitution of Trinidad and Tobago provides the Ombudsman with the jurisdiction, power or authority to investigate complaints from aggrieved persons about the administrative acts or omissions of government agencies for the purpose of recommending adequate remedies. The Ombudsman may investigate administrative acts which appear to be:

- **Contrary to law or regulation**
- **Unreasonable, unjust, arbitrary, offensive or discriminatory**
- **Based on an error of fact or on improper and irrelevant reasons**
- **Not accompanied by an adequate statement of fact when the law or regulation so requires.**
- **Executed inefficiently or erroneously**

No one can tell an Ombudsman whether to exercise jurisdiction to investigate a complaint. An Ombudsman can investigate complaints irrespective of legal opinions regarding the extinction of remedies and duplication of efforts.

Ultimately the deciding factor which determines whether a matter should or should not be investigated depends on what the Ombudsman believes is in the best interest of the complainant.

The year 2010 proved to be challenging for the Office. The number of telephone calls received was substantial. **Emails seeking assistance were also received from far off corners of the world such as The Seychelles Islands.** In those cases, the Office responded by informing the writers that it had no jurisdiction to intervene on their behalf.

An increased workload put some strain on the Office but the staff pulled us through during this period.

Complainants expect their matters to be dealt with expeditiously when they approach this Office. After all, one of the main allegations made against Government departments is that of delay. Therefore, when the Office takes weeks, months and in some cases, years to bring a matter to conclusion, public confidence in it will be undermined. Timely responses to queries raised will assist in moving a matter forward. For example, if a Head of Department were to set out succinctly for the Ombudsman the procedures that are being followed to rectify a particular situation and the status of the matter at the particular point in time, such information can be relayed to the complainant so as to assure him that he is not being ignored.

Staffing constraints appear to be the common reason for the non-response or the late response to queries raised or clarification sought from Government agencies. While I am aware that agencies such as the Town and Country Planning Division of the Ministry of Planning, Economic and Social Restructuring and Gender Affairs, and the Land Management Division of the Ministry of Food Production, Land and Marine Resources experience shortages of staff, it is inexcusable for those agencies to continually put forward that reason for not carrying out in a timely manner their functions under the portfolios assigned to their Divisions. There is also no excuse for failing to acknowledge receipt of letters even though numerous reminders are sent. Such inaction is discourteous to the Office.

CLIENT SATISFACTION SURVEY 2010

A Client Satisfaction Survey was conducted in October 2010 in collaboration with MORI Caribbean and the Ministry of Public Administration. The principal aim of this exercise was to determine an accurate and independent assessment of the level of client satisfaction which exists among those persons who have accessed the services of this institution.

The survey questionnaire was formulated with a view towards:

- **Understanding what drives customer satisfaction**
- **Understanding our complainants' special service needs and expectations**
- **Identifying areas for improvements in the current delivery of services**

The pool of participating complainants was randomly selected from:

- **400 complainants whose matters were concluded within the previous twelve months**
- **400 complainants whose matters were still under investigation**

The results of the Client Satisfaction Survey were encouraging and positive overall. The data analysis revealed that fifty-five percent (55%) of the complainants, whose matters were concluded, expressed satisfaction with the outcome of the complaint investigation. Forty-seven percent (47%) of the complainants whose matters were still under investigation stated they were satisfied with the manner in which their complaints were being handled by the Office of the Ombudsman.

An analysis of the data findings has been used to pinpoint the weak areas of the Office's service delivery which should be addressed. This information is being used to guide our efforts in improving the complaint handling process and the maintenance of a high standard of quality service to all persons accessing the institution's services. Similar surveys will be used in the future as a tool to improve organizational performance.

Therefore, the Office hopes to move more aggressively towards heightened public education activities since we recognize the benefits available to persons who do not always have a voice.

CONFERENCES ATTENDED

The Sixth Biennial Regional Conference of the Caribbean Ombudsman Association (CAROA) was held in Curacao from October 31, 2010 to November 5, 2010. Mr. Dayne Gellineau, Investigator, accompanied me. The theme of the Conference was "Integrity-Foundation of Good Governance."

The Conference which was attended by Ombudsmen in the Caribbean Islands, Belize and international invitees discussed the various components of Integrity and how that concept related to the issue of good governance throughout the Caribbean region.

BOARD MEETINGS

You will recall that three members of the International Ombudsman Institute (IOI) namely, the Ombudsman of Bermuda, Trinidad and Tobago and the President of the National Human Rights Commission of Mexico, were elected to represent the Latin America and Caribbean Region on the IOI Board of Directors. A Board of Directors meeting was held in Bermuda from October 16, 2010 to October 20, 2010.

TRAINING AND DEVELOPMENT

Members of staff attended the following training courses and programmes during 2010.

- **Microsoft Word 2007** - School of Business and Computer Science, Champs Fleurs
- **Planning for Retirement Workshop** - Petrotrin EAP Services
- **Microsoft Power Point and Outlook** - Samuel Neptune
- **Dealing with Difficult People** - Stitt Feld Training Group
- **National Workshop on the Implementation of the Inter-American Convention against Corruption in Trinidad and Tobago**
- **Microsoft Excel 2007**
- **National Symposium** - "Towards a National Multiculturalism Policy"
- **Public Service Employee Survey Workshop**
- **Persuasive Public Speaking** - University of Trinidad and Tobago (UTT)
- **Pitching and Advanced Power Point skills for Managers**
- **Employee Engagement** - HRMATT Training Centre
- **Advanced ADR** - Stitt Feld Group
- **Research Training Workshop** - Public Administration
- **Action Planning Workshop** - Public Administration
- **Project Management Workshop** - HRMATT Training Centre
- **Training the Trainer** - Government Training Centre
- **When Citizens Complain** - PAI, United Kingdom
- **OSHA Way** - HRMATT Training Centre
- **First Aid, CPR and AED** - JARIC
- **Indoor Air Quality Awareness Seminar**
- **Business Writing Techniques Workshop** - Irma Cadogan, IECA
- **Guidelines for Managing HIV/AIDS in the Public Service**
- **Administrative Professional Development** - Irma Cadogan, IECA
- **Customer Service Workshop** - Irma Cadogan, IECA

THE OMBUDSMAN AND THE FREEDOM OF INFORMATION ACT

The Freedom of Information Act (FOI) Chapter 22:02 was enacted to give members of the public a right of access to official documents of public authorities. This right is qualified in that certain documents are not to be accessed by an application made under the FOI. **Section 12** of the FOI lists these documents to include:

- **Documents with information that is open to public access**
- **A document which is available for purchase by the public**
- **A document that is available for inspection that is in a registry maintained by the Registrar General or other public authority, and**
- **A document which is stored for preservation or safe custody, which is a duplicate of a document of public authority**

Additionally there are documents which are exempt from disclosure. These include inter alia:

- **cabinet documents**
- **law enforcement documents**
- **documents relating to trade secrets**
- **documents affecting personal privacy**

Section 24 is relevant.

The Ombudsman's role in giving effect to the FOI arises in circumstances where a public body has refused to grant an applicant access to an official document. Section **38A** provides that a person may within twenty-one days of receiving notice of the refusal, complain in writing to the Ombudsman "... and the Ombudsman shall, after examining the document if it exists, make such recommendations with respect to the granting of access to the document as he thinks fit within thirty days or as soon as practicable thereof."

In making recommendations to the public authority, the Ombudsman is not required to include any matter that would cause the document to be an exempt document. Additionally, the Ombudsman may state her recommendations in terms which neither confirm nor deny the existence of any document which is an exempt document.

The Ombudsman's role is therefore one of an intermediary – determining from an impartial perspective whether or not a public body was correct in its decision to refuse an applicant access to a document. If the Ombudsman agrees with the public body's decision, the complainant will be so informed. If the Ombudsman does not agree with the decision, the Ombudsman will inform the public body of her findings. She will give her reasons for disagreeing with the decision of the public body and make a recommendation that the document should be disclosed, whether partially or in its entirety.

Section 38A subsection 3 of the FOI provides as follows:

"A public authority is required to consider the recommendations of the Ombudsman and, to such extent as it thinks fit, exercise its discretion in giving effect to the recommendations."

It must be noted that under the FOI, a person has the right to apply to the High Court for judicial review without making a complaint to the Ombudsman in circumstances where a public body has failed to respond within thirty days of an application.

7. In 2010 the Office of the Ombudsman received 39 complaints under the FOI.



STATISTICAL OVERVIEW 2010

STATISTICAL OVERVIEW 2010

In 2010, a total number of one thousand, four hundred and sixty-three (1463) new complaints were submitted to the Office of the Ombudsman. Two hundred and fifty-six (256) or 17.5% of the complaints received were against private organizations and were referred to the relevant authorities mandated to handle those concerns.

Investigations were commenced on the remaining one thousand, two hundred and seven (1207) complaints which fell within the jurisdiction of the Ombudsman of Trinidad and Tobago. This figure represented 82.5% of the one thousand, four hundred and sixty-three (1463) new complaints received. At the end of the year investigations were concluded on six hundred and forty-five (645) or 53.4 % of the complaints and a total of five hundred and sixty-two (562) or 46.6 % remained under investigation.

TABLE I

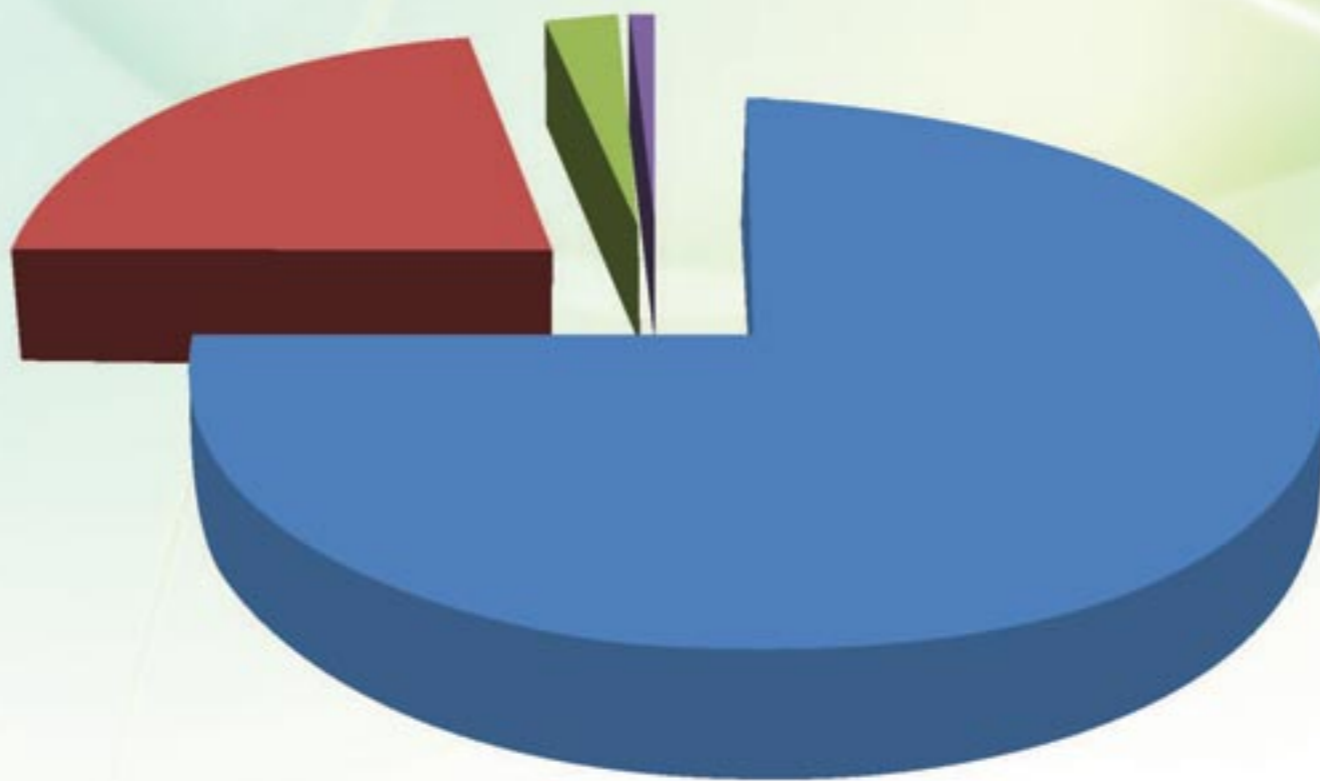
STATISTICS ON NEW COMPLAINTS RECEIVED DURING THE PERIOD JANUARY - DECEMBER 2010

	NUMBER	PERCENTAGES %
Total number of complaints received in 2010	1463	100
Total number of complaints without jurisdiction	256	17.5
Total number of complaints proceeded with	1207	82.5
Total number of complaints concluded	645	53.4
■ Sustained/Rectified	139	21.6
■ Not Sustained	5	0.8
■ Withdrawn/Discontinued	16	2.4
■ Advised/Referred	485	75.2
Freedom of Information Act	39	2.7
Enquiries/Referrals	309	21.1
TOTAL UNDER INVESTIGATION AS AT DECEMBER, 2010	562	46.6

■ These figures represent percentages of the number of complaints concluded.

STATISTICAL OVERVIEW 2010

New Complaints Concluded In 2010



■ Advised/Referred

■ Sustained/Rectified

■ Withdrawn/Discontinued

■ Not Sustained

STATISTICAL OVERVIEW 2010

Table 11 shows in detail the number of complaints received in 2010 against Ministries and State Agencies and the manner of their disposal during the same period.

TABLE II

DISTRIBUTION OF NEW COMPLAINTS IN RESPECT OF MINISTRIES/DEPARTMENTS

Ministry / Authority / Agency	Total No. of Complaints	Advised / Referred	Not Sustained	Sustained / Rectified	Under Investigation	Withdrawn / Discontinued
THE ARTS & MULTICULTURALISM	10	1	0	1	8	0
ATTORNEY GENERAL	2	2	0	0	0	0
CARIBBEAN AIRLINES	1	0	0	0	1	0
CIPRIANI LABOUR COLLEGE	1	0	0	0	1	0
EDUCATION	59	9	0	7	42	1
ELECTIONS AND BOUNDARIES COMMISSION	5	3	0	2	0	0
ENERGY AND ENERGY AFFAIRS	3	0	0	0	3	0
ENVIRONMENTAL MANAGEMENT AUTHORITY	5	0	0	1	4	0
FINANCE	87	3	0	4	80	0
FOOD PRODUCTION, LAND AND MARINE AFFAIRS	54	5	0	1	47	1
FOREIGN AFFAIRS	4	2	0	0	2	0
HEALTH	51	20	0	5	25	1
HOUSING AND THE ENVIRONMENT	8	6	0	0	2	0
<i>Housing Development Corporation (HDC)</i>	33	8	1	1	23	0
JUDICIARY	14	4	0	6	3	1
JUSTICE	2	2	0	0	0	0
LABOUR, SMALL AND MICRO ENTERPRISE DEVELOPMENT	10	4	0	1	5	0
LEGAL AFFAIRS	12	5	0	3	3	1
LOCAL GOVERNMENT	3	2	0	0	1	0
<i>Borough Corporation</i>	15	3	0	1	11	0
<i>City Corporation</i>	7	0	0	0	7	0
<i>Regional Corporation</i>	65	13	1	7	43	1
MAGISTRACY	10	4	0	4	2	0
NATIONAL MAINTAINANCE TRAINING SECURITY LTD.(M.T.S.)	4	0	0	0	4	0
NATIONAL INSURANCE BOARD	112	17	0	27	66	2
NATIONAL SECURITY	7	3	0	1	3	0
<i>Coast Guard</i>	3	1	0	0	2	0
<i>Defence Force</i>	2	1	0	0	1	0
<i>Fire Services</i>	11	2	0	1	8	0
<i>Forensic Centre</i>	3	1	0	0	2	0
<i>Immigration</i>	17	5	0	5	6	1
<i>Police Service</i>	27	14	1	2	8	2
<i>Prisons</i>	11	2	0	3	5	1

STATISTICAL OVERVIEW 2010

TABLE II Cont'd

DISTRIBUTION OF NEW COMPLAINTS IN RESPECT OF MINISTRIES/DEPARTMENTS

Ministry/Authority/Agency	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
OFFICE OF THE PRIME MINISTER	3	2	0	0	1	0
PEOPLE AND SOCIAL DEVELOPMENT	61	7	0	5	47	2
PERSONNEL DEPARTMENT	3	1	0	1	1	0
PLANNING, ECON & SOCIAL RESTRUCT & GENDER AFFAIRS	8	1	0	1	6	0
PORT AUTHORITY	3	1	0	0	2	0
PUBLIC ADMINISTRATION	3	1	0	0	2	0
PUBLIC UTILITIES	2	2	0	0	0	0
<i>T.S.T.T</i>	2	1	0	0	0	1
<i>T & TEC</i>	3	0	0	0	3	0
<i>W. A .S .A</i>	8	5	0	1	2	0
<i>TPPOST</i>	1	0	0	0	1	0
SCIENCE, TECHNOLOGY AND TERTIARY EDUCATION	7	3	0	2	2	0
SERVICE COMMISSIONS DEPARTMENT	9	0	0	1	8	0
SPORT AND YOUTH AFFAIRS	3	0	0	0	3	0
PETROTRIN	1	0	0	0	1	0
TEACHING SERVICE COMMISSION	1	1	0	0	0	0
TOBAGO HOUSE OF ASSEMBLY	6	0	1	0	5	0
<i>Division of Agriculture, Marine Affairs and the Environment</i>	1	0	0	0	1	0
<i>Division of Community Development & Culture</i>	2	0	0	0	2	0
<i>Division of Education, Youth Affairs & Sports</i>	1	0	0	0	1	0
<i>Division of Health & Social Services</i>	3	1	0	0	2	0
<i>Division of Infrastructure & Public Utilities</i>	15	0	1	2	12	0
<i>Division of Tourism & Transportation</i>	2	0	0	0	2	0
<i>Division of Finance & Enterprise Development</i>	1	0	0	0	1	0
TOBAGO DEVELOPMENT CAST	1	0	0	0	1	0
<i>Tabago Regional Health Authority</i>	9	0	0	0	9	0
TOURISM	3	2	0	0	1	0
TRADE AND INDUSTRY	4	2	0	0	2	0
WORKS AND TRANSPORT	35	4	0	4	26	1
SUB-TOTAL	859	176	5	100	562	16
<i>Freedom of Information Act, 1999 Chap. 22 : 02</i>	39			39		
<i>Enquiries/Referrals</i>	309	309				
TOTAL	1207					
Private	256					
GRAND TOTAL	1463	485	5	139	562	16

OUTREACH SERVICES

Outreach services are scheduled to allow citizens living in rural areas easier access to the services provided by the Office of the Ombudsman. These services are provided to the communities of Point Fortin, Rio Claro, Chaguanas, Sangre Grande, Siparia and Couva on a monthly basis; and to Roxborough on a quarterly basis.

A total of three hundred and ninety-two (392) persons accessed our outreach services during the year 2010.

TABLE IV
NUMBER OF PERSONS WHO VISITED THE REGIONAL OFFICES IN THE YEAR 2010

MONTHS	POINT FORTIN	RIO CLARO	CHAGUANAS	SANGRE GRANDE	SIPARIA	COUVA	ROXBOROUGH	TOTAL
January	2	9	2	7	5	11	0	36
February	2	5	7	8	6	11	0	39
March	6	4	5	5	8	7	0	35
April	0	10	2	7	10	8	0	37
May	8	3	5	0	5	6	0	27
June	8	12	2	5	3	5	0	35
July	5	9	8	3	4	4	0	33
August	10	3	8	5	7	10	0	43
September	5	7	2	3	9	6	0	32
October	7	4	3	7	9	6	3	39
November	3	6	5	5	3	8	0	30
December	3	NO VISIT	3	NO VISIT	0	NO VISIT	NO VISIT	6
TOTAL	59	72	52	55	69	82	3	392

TOBAGO REGIONAL OFFICE

During the year 2010, a total number of one hundred and seventy-three (173) new complaints were lodged at the Tobago Regional Office. Forty-one (41) or 23.7% of these complaints were against private institutions.

Investigations commenced on one hundred and thirty-two (132) or 76.3 % of the new complaints received. At the end of this reporting year investigations were finalized on thirty-one (31) or 23.5% of these matters and one hundred and one or 76.5% remained pending under investigation.

Table V shows the number of complaints received at the Tobago Regional Office in 2010 and the manner of their disposal.

TABLE V
STATISTICS ON NEW COMPLAINTS RECEIVED DURING THE PERIOD
JANUARY - DECEMBER 2010

	NUMBER	PERCENTAGES %
Total number of complaints received in 2010	173	100
Total number of complaints without jurisdiction	41	23.7
Total number of complaints proceeded with	132	76.3
Total number of complaints concluded	31	23.5
■ Sustained/Rectified	3	9.7
■ Not Sustained	2	6.5
■ Withdrawn/Discontinued	1	3.2
■ Advised/Referred	25	80.6
Freedom of Information Act	NIL	NIL
Enquiries/Referrals	19	11
TOTAL UNDER INVESTIGATION AS AT DECEMBER, 2010	101	76.5

■ These figures represent percentages of the number of complaints concluded.

TOBAGO REGIONAL OFFICE

TABLE VI

DISTRIBUTION OF NEW COMPLAINTS IN RESPECT OF THE TOBAGO SUB-OFFICE

Ministry/Authority/Agency	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
THE ARTS & MULTICULTURALISM	1	0	0	0	1	0
CARIBBEAN AIRLINES	1	0	0	0	1	0
EDUCATION	15	1	0	0	14	0
FINANCE	3	0	0	0	3	0
FOOD PRODUCTION, LAND AND MARINE AFFAIRS	15	0	0	0	15	0
HOUSING AND THE ENVIRONMENT	3	0	0	0	3	0
JUDICIARY	1	0	0	0	1	0
LABOUR AND SMALL AND MICRO ENTERPRISE DEVELOPMENT	1	0	0	1	0	0
MAGISTRACY	3	1	0	0	2	0
N.M.T.S	4	0	0	0	4	0
NATIONAL INSURANCE BOARD	4	0	0	0	4	0
NATIONAL SECURITY						
<i>Fire Services</i>	1	0	0	0	1	0
<i>Immigration</i>	2	0	0	0	2	0
<i>Police Service</i>	7	3	0	0	3	1
PUBLIC ADMINISTRATION	1	0	0	0	1	0
PORT AUTHORITY	1	0	0	0	1	0
PUBLIC UTILITIES						
<i>TTPOST</i>	1	0	0	0	1	0
<i>T & TEC</i>	1	0	0	0	1	0
SERVICE COMMISSIONS DEPT	3	0	0	0	3	0
PEOPLE AND SOCIAL DEVELOPMENT	4	0	0	0	4	0
TOBAGO DEVELOPMENT						
• <i>C.A.S.T</i>	1	0	0	0	1	0
• <i>Tobago Regional Health Authority</i>	9	0	0	0	9	0
TOBAGO HOUSE OF ASSEMBLY	6	0	1	0	5	0
<i>Agriculture, Marine Affairs and the Environment</i>	1	0	0	0	1	0
<i>Division of Community Development & Culture</i>	2	0	0	0	2	0
<i>Division of Education, Youth Affairs & Sports</i>	1	0	0	0	1	0
<i>Division of Health & Social Services</i>	3	1	0	0	2	0
<i>Division of Infrastructure & Public Utilities</i>	14	0	1	2	11	0
<i>Division of Tourism & Transportation</i>	2	0	0	0	2	0
<i>Finance & Enterprise Development</i>	1	0	0	0	1	0
WORKS AND TRANSPORT	1	0	0	0	1	0
REFERRALS	19	19				
TOTAL	132	25	2	3	101	1
Private	41					
GRAND TOTAL	173	25	2	3	101	1



AREAS OF CONCERN

AREAS OF CONCERN

RETIREMENT BENEFITS

Over the year I have noted that several complaints about delays in receiving benefits were submitted to this Office. While some complaints related to non-payment of increments, the majority related to the delay in paying retirement benefits. This is a cause for concern since a retirement benefit is usually the only source of income for the retiree.

Additionally, since the retiree will not be eligible to receive a senior citizen's grant, no income is available from any other source, thus causing hardship. I have found that the delay is usually caused by inefficient record keeping of personnel data. This is especially so where the retiree has worked in more than one department of Government and where Ministries have undergone radical changes to their portfolios.

Ministries must ensure that proper systems for collecting and recording personnel data are in place so that by the time an officer has reached the age of retirement all information concerning him is correct and up to date. This will enable the relevant authorities to expeditiously process the retirement benefits and thus minimise the length of time that is taken to effect payment to retirees.

Housing Development Corporation (H.D.C.)

In my 2006 Report I highlighted the various complaints made against the H.D.C. At the top of the list were the following:

- **Delays in obtaining housing accommodation**
- **Shoddy work by contractors**
- **Non-maintenance and lack of repairs to tenanted units**

It is sad to say that in 2010, the problems encountered by persons seeking the services of H.D.C. have not been rectified. In fact, they have escalated. There is either a deafening silence from the H.D.C. when this Office seeks feedback on matters of concern to applicants or we receive a statement saying that housing is allocated according to a Cabinet approved policy. Allocation is based on the following principles – 75% for public applicants, 10% for the Joint Protective Services, 15% for special emergency cases, senior citizens and physically challenged persons.

A female member of the Police Service sought my assistance to obtain housing for herself and her children in order to distance herself from an abusive relationship. At the time, she was living with relatives in cramped surroundings. She had applied for housing but the response to her application was not promising. I wrote H.D.C. on the officer's behalf, having regard to the fact that 10% of housing units were allocated to the Protective Services, but never received a response.

While it is believed that the lottery system is designed to give all citizens an equal opportunity to obtain affordable housing, it has been noted that there have been situations where the pendulum appeared to have swung in the opposite direction. It is frustrating to tell complainants that they should continue to exercise patience and trust the process when they have been waiting decades for housing.

AREAS OF CONCERN

While policy guidelines are necessary, there will always be special need cases to be addressed. The Government faces a monumental task in seeking to provide affordable housing for citizens. The concept of a “starter” house where the owner can make adjustments according to his finances or the provision of more rental units for those less able to secure a large mortgage should be the focus of attention of H.D.C.

There must be better supervision and monitoring of the work performed by contractors on behalf of the H.D.C. I visited several homes in the Point Fortin area where structural damage was evident as a result of poor workmanship on the part of the contractor. A concrete example is set out in a Case Note in this Report.

Town and Country Planning Division

Members of the public continue to submit numerous complaints against the Town and Country Planning Division (the Division). Attempts to resolve these complaints are frequently stymied by the Division’s decision to invoke the statute of limitations in accordance with Section 16 (1) of the Town and Country Planning Act. In this regard, matters that may have been submitted to the Division before the four years expiration date are statute-barred. Therefore, these matters remain unresolved.

Complaints relate to the unauthorized use of buildings located in residential areas for commercial purposes, unauthorized construction of amenities, the illegal construction of walls and the encroachment by one owner onto another’s property. Section 16 of the Town and Country Planning Act Chapter 35:01 states inter alia:

“ (1) If it appears to the Minister that any development of land has been carried out after the commencement of this Act without the grant of permission required in that behalf under this Part, or that any conditions subject to which the permission was granted in respect of any development have not been complied with, then the Minister may within four years of the development being carried out, or, in case of non-compliance with a condition, within four years after the date of the alleged failure to comply with it, if he considers it expedient to do so having regard to the provisions of the development plan and to any other material considerations, serve on the owner and occupier of the land a notice under this section.”

A notice may require the offending party to take steps to rectify the problem by demolition or alteration of any buildings or works and/or discontinuance of the unauthorized use of land. However, on numerous occasions the Division has informed this Office that it was unable to resolve a matter within the four year period provided for in the Act.

In 2006, a complainant sought the assistance of the Ombudsman with respect to the failure of the Division to address the problem of the unauthorized use of a house for business activity in the vicinity of her home. This Office wrote the Division on May 16, 2006. By letter dated February 18, 2007, the Division informed the Ombudsman that a Letter of Advice was issued

AREAS OF CONCERN

to the offender and the matter would be prepared for Enforcement Proceedings if the offender did not comply. Subsequently, by letter dated October 22, 2008, the Division informed the Ombudsman that the matter was still being investigated and the Division would provide information on the progress made. Eventually, in 2010, the Division informed the Ombudsman that the building itself had no approval but having been erected in 2005 the Division could no longer pursue the matter.

Divisional Heads have stated often that the delay in replying to correspondence is due to the constraints under which they operate. The Division states that a paucity of professional staff exists and therefore those on board are swamped and are unable to perform their functions effectively.

However, I believe that the lack of staff should not be used as an excuse for not responding to correspondence from this Office in a timely fashion. Such inaction on the part of the Division is disrespectful to the Office of the Ombudsman.



CASE NOTES

From the Ombudsman Files

CASE NOTES

MINISTRY OF AGRICULTURE, LAND AND MARINE RESOURCES

APPLICATION FOR AGRICULTURAL LEASE UNDULY DELAYED

In 2004 the Complainants applied to the then **Ministry of Agriculture, Land and Marine Resources** for a Standard Agricultural Lease of approximately 2.3 hectares of State land situated at Adjodha Trace, Las Lomas No. 1, Chin Chin Road, Cunupia. The existing lessee, by declaration dated June 11, 2004, indicated her desire to surrender the unexpired residue of the term of the lease to the complainants to facilitate the issue of a new lease.

In accordance with Cabinet Minute No. 1816 dated July 14, 2005, Cabinet agreed to the grant of a new Standard Agricultural Lease in favour of the Complainants for the parcel. The survey plan was approved on April 7, 2006.

An offer for a new Standard Agricultural Lease was made to the Complainants to which they indicated their written acceptance by letter dated October 10, 2005. They also nominated a private land surveyor to survey their parcel. Having received no lease, the Complainants then sought the assistance of the Ombudsman on June 13, 2008.

Accordingly, a status report on the Complainant's application for the lease was requested from the Office of the **Commissioner of State Lands**. It was revealed that by memorandum dated January 22, 2009 instructions were sent to the **Chief State Solicitor's Office** to initiate the preparation of the Standard Agricultural Lease in favour of the Complainants.

The Chief State Solicitor's Office subsequently informed the Office of the Commissioner of State Lands that a Deed of Surrender was prepared and that the signature of the lessee was required to effect such surrender. This was required to facilitate the processing of the new lease. The Chief State Solicitor's Office informed the current lessee, by letter dated August 12, 2009 that she should visit their Office to sign the relevant documents. To date, however, she had not done so. As a result, further processing of the lease had been delayed.

The Office of the Ombudsman, by letter dated March 17, 2010 recommended to the Commissioner of State Lands that a notice be published in a daily newspaper requesting that the lessee visit the Office of the Chief State Solicitor to complete the relevant transaction and that she be informed of the action which may be taken should she fail to comply. Further, it was also recommended that in the event of the lessee's failure to respond to the advertisement, steps should be taken to terminate the lease in her name so that the new lease in the names of the Complainants may be processed.

Subsequently, in a response dated September 15, 2010 the Office of the Commissioner of State Lands acknowledged the Ombudsman's suggestion and indicated that the publication of such a notice was not the normal practice but the advice of the Chief State Solicitor was being sought on the matter.

This Office is awaiting further information on the status of this matter.

CASE NOTES

Ministry Of Food Production, Land And Marine Resources (Commissioner Of State Lands)

Delay in Obtaining Compensation for Land Acquired by the State

In 2007, the Complainant sought the assistance of the Ombudsman to obtain compensation for land that had been acquired by the State.

The Complainant stated that over a period of several years, a total of 27,204 square feet of land had been acquired from her deceased father for the widening of two streets in Diego Martin. In 1980 representations were made by her parents to the Sub-Intendant of State Lands, Land Acquisition Section, for compensation for the acquired land, but they received no reply.

Four years later, the Complainant approached the Chief Executive Officer of the St. George West County Council to obtain information regarding the acquisition but was informed that the relevant file could not be located. Subsequent queries failed to yield a positive response.

The Ombudsman, by letters dated August 17, 2007, referred the matter for the attention of the then Ministry of Agriculture, Land and Marine Resources, the Lands and Surveys Division and the Ministry of Local Government.

The Ministry of Local Government subsequently indicated that the matter had been forwarded to the Chief Executive Officer, San Juan/Laventille Regional Corporation for necessary action. In addition, the Office of the Commissioner of State Lands, by letter dated September 6, 2007 indicated that a search of their records did not show that a request had been made for the acquisition of the parcel of land in question. To that end the Commissioner's office wrote the Ministry of Works and Transport (Highways Division) for any information they had concerning the matter.

Further enquiries with the Ministry of Local Government revealed that the San Juan/Laventille Regional Corporation was still in the process of investigating the matter.

Subsequently, by letter dated January 21, 2008 the Ministry of Works and Transport submitted a report to the Ombudsman which indicated that the alleged acquisition of land was initiated in the past by the Ministry of Local Government and that the matter should be re-directed to that Ministry. Moreover, they stated that all such records, including payments for acquisition, should be available at the Office of the Commissioner of State Lands and, as such, this matter should also be re-directed. The Ministry also questioned why the Commissioner of State Lands would have written the Project Implementation Unit (PIU) Highways for information on this matter, as the PIU was established around 1987, several years after the land had been acquired.

It should be noted that the Ombudsman had already referred the matter to the above named Offices and that it was the Office to the Commissioner of State Lands that had referred this matter to the Project Implementation Unit (PIU) Highways.

CASE NOTES

In an effort to bring about a resolution to the matter, the Ombudsman conducted a meeting on Tuesday 3rd June, 2008 at the Port of Spain office of the Ombudsman with representatives from the Highways Division, Ministry of Works and Transport, the San Juan/Laventille Regional Corporation, the Office of the Commissioner of State Lands, the Ministry of Local Government and the Ministry of Works and Transport. It was agreed that the Commissioner of State Lands would conduct further investigations and that a subsequent report would be forthcoming.

Subsequently, by letter dated August 19, 2008 the Commissioner of State Lands informed this Office that a Status Report had been conducted on the parcel of land and there was no indication of an acquisition.

In light of this information, the Ombudsman referred the matter for the attention of the Chief Executive Officer, Diego Martin Regional Corporation to ascertain from their records whether the lands in question were acquired for the widening of the relevant roads. In addition, information on the matter was also requested from the Director Surveys, Lands and Surveys Division.

In December 2009, the Regional Corporation advised that they did not have any record of the acquisition and furthermore their office did not handle land acquisitions.

Following further enquiries with the Director of Surveys, in October 2010 the Ombudsman was informed that a Land Surveyor would be contracted to conduct another survey of the area in question. It was expected that this survey would finally reveal whether any portion of the land had been acquired by the State.

The matter is still being pursued.

CASE NOTES

MINISTRY OF FOOD PRODUCTION, LAND AND MARINE AFFAIRS/HOUSING DEVELOPMENT CORPORATION

DELAY IN OBTAINING A DEED

In January 2009, the complainant, aged ninety (90) years, sought the assistance of the Ombudsman in obtaining the deed for a property he had purchased from the Housing Development Corporation (H.D.C.), then known as the National Housing Authority (N.H.A.). The property comprised freehold land and house situated at National Avenue, Mt. Hope.

Details of the Complaint: The complainant visited the Office of the Ombudsman on January 6, 2009. He stated that by letter dated November 22, 2001 he was informed that the property had been paid for in full. Since then he had been trying without success to obtain the deed. The complainant noted that during his last visit to the H.D.C. offices in 2008 he was told that his documents had been forwarded to the Land and Surveys Department for processing. However, when he visited that Department in December 2008, he was told that the Department was awaiting information from H.D.C.

Investigation: The investigator assigned to this case contacted the Legal Department, H.D.C. and spoke to a senior officer who verified that the deed had to be prepared by the Lands and Surveys Department and that the information had already been submitted to that department.

A letter dated January 20, 2009 was sent from the Office of the Ombudsman to the Commissioner of State Lands enquiring about the status of the complainant's application for the deed. Subsequently, reminders were sent to the Commissioner's office and discussions were held with officers who were dealing with the matter.

By letter dated September 21, 2010 the Ombudsman was informed by the Commissioner of State Lands that the complainant's property did not fall under the purview of their Division and that the H.D.C. was the responsible agency.

When officers from the H.D.C. were contacted, they continued to re-affirm that Director of Survey's Department is responsible for the preparation of the deed.

Problems: This shifting of responsibility from agency to agency is totally unacceptable. Government agencies should make every effort to assist citizens. Senior citizens especially should be given special attention. When such problems occur there should be collaboration between agencies to alleviate lengthy delays.

Although the complainant has since died, the Office of the Ombudsman is continuing to pursue this matter.

CASE NOTES

MINISTRY OF FINANCE (BOARD OF INLAND REVENUE)

UNWARRANTED DEDUCTION FROM LATE HUSBAND'S GRATUITY

The Complainant claimed that her deceased husband, a former Health Control Officer I, received approval from the **Division of Health and Social Services, Tobago House of Assembly (THA)** to have arrears of Income Tax as at December 1995 offset against Public Service Salary Arrears owed to him. The Complainant's husband had been informed that the **Board of Inland Revenue (BIR)** would be advised of the approval to offset the arrears of Income Tax in the specified sum. However, after the death of her husband, the Complainant observed that the sum, which consisted of the arrears of income tax, had been deducted from the Death Gratuity she had received.

The Complainant wrote to the Chairman, BIR in 2008 to inform the Chairman of the anomaly and to request a refund of the amount deducted. However, at the time of her making the complaint to the Ombudsman in 2009, the Complainant claimed she had not received a response from the BIR. Additionally, the Complainant claimed that the 2004 Income Tax refund due to her was outstanding and a refund she had received for the income year 2006 showed a downward adjustment from nine hundred and twenty-one dollars and twenty-five cents (\$921.25) to four hundred and ninety-two dollars and twenty-five cents (\$492.25). According to the Complainant her efforts to have these concerns addressed at the **Tobago Division of the BIR** had not been successful.

The Ombudsman requested that the BIR conduct a review of claims made by the Complainant to determine their validity and, if applicable, to expedite the repayment process to alleviate the financial burden on this widow.

In January, 2010 the Chairman, BIR informed the Ombudsman that, after the review had been conducted, it was determined that the Complainant's claims were valid and as a result action had been initiated to ensure that the Complainant received the relevant refund. The Complainant was subsequently requested to submit Letters of Administration and other supporting information for the processing of payment.

The Complainant later confirmed that she had received payment and expressed satisfaction with the outcome.

CASE NOTES

MINISTRY OF HEALTH

MINISTRY SEEKING PARTIAL REPAYMENT OF BURSARY DESPITE CONTRACTUAL TERMS

The Complainant was awarded a bursary from the Ministry of Health for the academic year 2007/2008. The Complainant had received a bursary for the previous academic year. The new bursary was awarded to complete a degree in Social Work at the University of the West Indies (UWI). The sum awarded was sixty thousand dollars (\$60,000.00). The Complainant queried the sum given, but was assured by the then Deputy Permanent Secretary that the sum was correct. She was also informed that she could apply for another bursary in order to complete her final year at UWI. The Complainant successfully completed the second year of her studies.

After applying for a bursary for the final academic year, the Complainant received a letter from the Ministry stating that on the basis of Cabinet approved expenses to eligible candidates at UWI, the Complainant had been overpaid the sum of four thousand, five hundred and eighty-four dollars (\$4,584.00) for the academic years 2007/2008 and 2008/2009. The Ministry requested that she contact the Accounting Executive II in order to make arrangements to repay the sum in question.

The Complainant met with HR Personnel at the Ministry and a union representative subsequent to receiving this letter. However, the Ministry's position was that the overpayment had to be repaid and the Complainant was not awarded the bursary for the final academic year. She was unable to complete her degree on schedule, and obtained her degree in 2010, one year later as a result. The Complainant was not successful in obtaining employment as a social worker immediately following completion of her degree and was employed as a telephone operator at the Mount Hope Medical Sciences Complex. She hoped to obtain a job as a social worker at a Regional Health Authority to fulfil her contractual obligations to the Ministry.

The Complainant sought the aid of the Ombudsman as she believed that the mistake of the overpayment of the bursary awarded to her was the fault of the Ministry and as such she should not have to repay the sum in question as requested by the Ministry of Health.

The matter was referred to the Permanent Secretary at the Ministry of Health with a recommendation that Cabinet approval be sought to write off the sum allegedly owed. The Ministry's subsequent response reiterated its position that the Complainant had to repay the sum in question.

The Office of the Ombudsman is pursuing the matter.

CASE NOTES

MINISTRY OF LEGAL AFFAIRS – REGISTRAR GENERAL'S DEPARTMENT

DELAY IN OBTAINING COMPUTERIZED BIRTH CERTIFICATE

The Complainant, an eighty-two year old man, applied for a computerized Birth Certificate from the Registrar General's Department on July 01, 2008. In September 2008, he visited the Department to enquire into the status of his application. However, he was informed that the Birth Certificate bearing similar details had been issued on August 25, 2008 to another person. He was also informed that the matter would be investigated and that he should not re-apply for a Birth Certificate.

Sometime thereafter, the Complainant enquired into the status of the investigation and was then informed that his matter could not be addressed by the Registrar General's Department. In spite of this, a duplicate Birth Certificate was subsequently issued to him.

The Complainant then attempted to use the duplicate Birth Certificate to apply for a machine readable Passport from the Immigration Division. However, the Immigration Division indicated that the application could not be processed, as the Personal Identification Number (PIN) reflected on his Birth Certificate was already in use by another person. Moreover, the Division suggested that he return the said document to the Registrar General's Department for further clarification.

In light of this, the Complainant brought the matter to the attention of the Ombudsman. Investigations by this Office also confirmed that another person was in possession of the same Birth Certificate with a similar PIN. Furthermore, it was noted that at the time of registration the item indicating Sex/Gender was recorded as Female. As a consequence, a senior officer of the Registrar General's Department requested that the Complainant meet with her on April 24, 2009 to establish the identity of the person to whom the Birth Certificate belonged. However, the officer did not keep the scheduled appointment.

Subsequently, after numerous enquiries by this office, the Department by letters dated May 17, 2010 and September 15, 2010, advised that the Complainant should visit the Port of Spain office of the Registrar General's Department to see a Registrar. He was also advised that in order to facilitate the determination of this matter, he needed to submit copies of his siblings' Birth Certificates and any information which pertained to his birth.

The Complainant tried to obtain the requested documents, without success, as all his siblings were now deceased. Furthermore, he was of the view, that at the age of eighty-two it would be impossible to obtain any other relevant documents which had been requested by the Registrar General's Department.

The matter is still being pursued.

CASE NOTES

THE MINISTRY OF LOCAL GOVERNMENT – SAN FERNANDO CITY CORPORATION

FLAWED REASONING LEADS TO DENIAL OF JUST DUES

The Complainant, a retired Works Supervisor I at the San Fernando City Corporation, was re-employed on contract in 2007. The contract covered the period December 3, 2007 to December 31, 2007 at a daily rate of three hundred and twenty-five dollars (\$325.00). Upon the expiration of the contract, the Complainant claimed that he was given verbal approval by the City Engineer to continue to work pending the preparation of the new contract. The Complainant continued to work up to and including June 6, 2008. However, he was not paid for the period February 7, 2008 to June 6, 2008. The Complainant made several unsuccessful attempts to have the issue resolved by the Corporation. Thereafter, he sought my assistance.

The matter was brought to the attention of the Permanent Secretary, Ministry of Local Government on May 25, 2009. By letter dated November 20, 2009 the Permanent Secretary forwarded a copy of a memorandum which enunciated the Corporation's position in the matter.

The Corporation stated as follows:

- "(a) The worker was employed pursuant to a written contract of employment which was renewed on a month to month basis and lasted for the period December 3, 2007 to February 6, 2008.
- (b) The Chief Executive Officer would have had to affix his/her signature to the contract to make it valid and this should have been done before the worker assumed duties.
- (c) The worker was paid for the period covered by the contract and that during the period February 7, 2008 to June 6, 2008 he was not employed by the Corporation under a valid contract of employment.
- (d) As far as the Corporation is aware, there was no renewal of the contract even though by memorandum dated January 29, 2008 the City Engineer requested the extension of the worker's contract.
- (e) The decision not to retain the services of the worker was communicated to the City Engineer by the Deputy City Clerk via a memorandum sent in and around the month of January, 2008 which cannot be located.
- (f) Notwithstanding the above, the worker alleged that he was verbally informed by the City Engineer to continue work pending the preparation of a new contract. The worker then was grossly negligent by not acting in a manner to mitigate his loss."

CASE NOTES

I was of the opinion that the reasons outlined in the Corporation's statement above were flawed. In law, a contract may be in existence even if it is not in writing or signed. The only contracts which must be evidenced in writing are contracts for the sale of land. Given the norm in the Government Service, it is not unusual for a person to work during a period for which there is no written or formal contract.

It was not recommended that the Complainant be paid the sums agreed under the original contract. However, where it was ascertained that he did work, then on equitable principles he should be paid on a "quantum meruit" basis, that is, a reasonable sum for the work performed.

Since the memorandum containing the decision not to retain the services of the Complainant could not be located, it was recommended that consideration should be given to his claim even though he should have sought to mitigate his loss.

In that regard, I made a recommendation to the Corporation that the Complainant be paid compensation for work performed during the relevant period, on the basis of a "quantum meruit".

By letter dated July 6, 2010 the Corporation advised that my recommendation had been accepted and the Complainant was paid the sum of eighteen thousand dollars (\$18,000.00) in final settlement of his claim.

CASE NOTES

COUVA/TABAQUITE/TALPARO REGIONAL CORPORATION

NO BOX DRAIN FOR COUVA/TABAQUITE/TALPARO RESIDENTS

The Complainant, who lives in Central Trinidad, contacted the Ombudsman in July 2003 complaining of inadequate drainage and flooding to her property caused by her neighbour's waste water as well as flood waters.

The inadequate drainage and the resultant health nuisances were brought to the attention of the Country medical officer of Health (Caroni) in June 2004. In August 2004, the Office of the Ombudsman was informed that a Departmental Notice had been issued by the County Medical Officer of Health to the Couva Tabaquite/Talparo Regional Corporation recommending the execution of remedial works to the earthen main outfall drain. The office took follow up action with the Regional Corporation in September 2004.

Seven reminders were sent to the Chief Executive Officer, Couva/Tabaquite/Talparo Regional Corporation from October 2004 to March 2006. The Corporation responded by letter dated April 19, 2006 stating that there was a need for the construction of a box drain 35 metres long by 1 metre deep by 1.2 metres wide to channel the flow of water, thereby preventing the erosion of the Complainant's property. The estimated cost of the Development Project, at that time, which had to be included by the Council in the Draft Estimates was fifty thousand dollars (\$50,000.00). The Complainant was so informed by this office and was advised that she should approach the Councillor with a view to having the matter put before the Council.

In June 2006, the Complainant informed the office that no action had been taken by the Regional Corporation. She stated that the flooding of her property had worsened.

I informed the then Minister of Local Government of my concerns and requested the assistance of the Ministry of Local Government to source funding for the completion of the box drain. No response was ever received.

By letter dated November 1, 2007 the Regional Corporation advised that the estimated cost of the project had escalated from fifty thousand dollars (\$50,000.00) to seventy-five thousand dollars (\$75,000.00).

Despite several reminders to the Corporation over the years, the box drain has not been built.

This inertia on the part of the Regional Corporation should not continue.

CASE NOTES

MINISTRY OF NATIONAL SECURITY (FIRE SERVICES DIVISION)

WORKMAN'S COMPENSATION INADEQUATE?

The Complainant, a retired Fire Sub Station Officer, sought the assistance of the Ombudsman to have the Permanent Secretary, Ministry of National Security (PSMNS) review the quantum of compensation he had received for an injury sustained on the job.

The Complainant had been injured on August 20, 1999 while conducting a special service at the Scarborough Port Authority compound, which entailed the washing of a paved area to facilitate the holding of the thirty-seventh Independence Anniversary Parade. Whilst in the process of assisting an Auxiliary Firefighter who was having difficulty controlling the pressure-charged water hose, the hose came into contact with the Complainant's face and a jet of water struck him in his eyes. The Complainant was immediately hospitalized and it was later confirmed by authorized medical personnel that there had been severe damage done to his right eye. The Complainant underwent surgery involving a lensectomy and vitrectomy. The cost of the surgery was seventeen thousand dollars (\$17,000) which was borne by the Trinidad and Tobago Fire Service.

In September 2009, some ten years after the accident, the Complainant received compensation for the injury in the sum of sixty thousand dollars (\$60,000). It was at that point that the Complainant approached the Ombudsman because he thought the amount he had received as compensation was 'grossly inadequate.' He claimed that when he had contacted the Permanent Secretary, Ministry of National Security to obtain information as to why the compensation sum was so meagre, he was informed that the Fire Service had never made representations on his behalf for compensation to be paid to him for his injury. He wanted the quantum of compensation paid to him reviewed, especially since, despite the surgery; he had eventually lost sight in his right eye.

The Ombudsman referred the Complainant's request to the PSMNS in December 2009. A response was received in January 2010 in which the PSMNS stated that the compensation awarded to the Complainant had been paid in accordance with the recommendations of the Solicitor General. In April 2010, however, the Ministry, cognizant of the length of time that had elapsed before any compensation had been paid to the Complainant, as well as the fact that the Complainant had completely lost sight in the affected eye; requested that the Solicitor General review the quantum of compensation he had been paid for his injury.

The PSMNS, in a letter dated October 13, 2010 solicited the Ombudsman's assistance in contacting the Complainant to request that he provide additional medical evidence to the Solicitor General that would confirm and/or support his claim that he had lost the vision in his right eye as a result of the injury. The Complainant provided the information requested to the Ombudsman in December 2010 and it was forwarded to the PSMNS.

The matter is still being pursued.

CASE NOTES

MINISTRY OF THE PEOPLE AND SOCIAL DEVELOPMENT

DELAY IN OBTAINING PAYMENT FOR ARREARS OF INCREMENTS

The Complainant was employed for the period June 2000 to June 2007 as a Temporary Clerk I with the then Ministry of Social Development. She stated that she had never received salary increments during her period of employment with the Ministry.

In 2005 she brought the matter to the attention of the Human Resource Unit of the Ministry and was informed that the award of the outstanding increments would be completed upon receipt of her Performance Appraisal Reports from her immediate Supervisor. Subsequently, in May 2007, the Complainant once again made enquiries with the Human Resource Unit, and was informed that the matter was receiving attention. One month later, in June 2007, the Complainant resigned from the Public Service. Thereafter, in December 2007, she was notified that an investigation would be conducted into the cause of the delay regarding the award of the still outstanding increments.

Shortly thereafter, the Complainant was notified by the Human Resource Unit that she had in fact broken her service and was therefore not entitled to the payment of increments for the period 2000 to 2007. However, she was only entitled to increments from 2002 to 2004. The Complainant had previously obtained a Job Letter dated March 2, 2007 from the Ministry, which indicated that she had been employed continuously in the Public Service since June 20, 2000. Consequently, in November 2008, she sought the intervention of the Ombudsman with respect to the delay in obtaining the arrears of increments owed to her, for the period 2000 to 2007.

This Office referred the matter to the Ministry of Social Development for clarification. Subsequently, in January 2009, the Human Resource Officer I in the Human Resource Unit of the Ministry indicated that she was awaiting the classification of periods of sick leave. That information was needed before approval could be sought for outstanding increments to be paid to the Complainant.

In August 2009 the classification of the sick leave had not yet been completed. In addition, the Ministry advised that the Complainant's Performance Appraisal Reports were still outstanding. By May 2010 the Performance Appraisal Reports were finally completed. However, the classification of the sick leave was still outstanding. Three months later, this Office was informed that the leave had been classified as extended sick leave and as such, incremental dates now had to be determined.

Eventually, after several enquiries, this Office was informed on October 21, 2010 that the approval for the award of increments had been received from the Permanent Secretary and would be forwarded to the Accounting Unit by the following week. However, despite the information provided by the Ministry in October, 2010 this Office was subsequently advised in November 2010 that the proposed award of increments had just been submitted to the Permanent Secretary for approval.

CASE NOTES

MINISTRY OF PLANNING, HOUSING AND THE ENVIRONMENT TOWN AND COUNTRY PLANNING DIVISION

DELAY IN TAKING APPROPRIATE ACTION AGAINST OFFENDER

In 2006, a gentleman complained to the **Diego Martin Regional Corporation (DMRC)** and the **Town and Country Planning Division (TCPD)** of illegal building works and activities in his area. His main complaint concerned the construction of an off-loading ramp (against his fence) for a nearby supermarket. Additionally, there was indiscriminate parking and blocking of the roadway. Such action caused great difficulty for residents entering and leaving their homes. The presence of heavy trucks resulted in the deterioration of the road.

The TCPD informed the complainant by letter dated March 28, 2007 that the offender had been issued a Letter of Advice with a subsequent letter requesting information pertaining to details of the development. The Complainant was also informed that failure to comply with the Division's request within the fourteen (14) day period would result in continued Enforcement Proceedings being taken against the offender. Since that letter, no further action was taken by the TCPD. The Complainant contacted the Ombudsman in July 2007 when there was no resolution of the matter either by the DMRC or the TCPD. When this Office sought the comments of the DMRC, the DMRC advised that the supermarket had received all the necessary approvals from the relevant agencies and as such the DMRC could not proceed further.

The Complainant, representatives from the TCPD and the Office of the Ombudsman conducted a site visit on January 24, 2008. The Representative from TCPD advised that the complaint appeared to be justified since it seemed that the building, in its then form, was unauthorized. Following the site visit, the Director, TCPD was then asked of the measures taken by the Division to ensure that the supermarket had complied with the stipulated building codes and the provisions in the Town and Country Legislation.

By letter dated June 4, 2008 this Office was advised by the Director, Town and Country Planning Division that the matter had been forwarded to the Legal Services Unit of the Division for the processing of the Enforcement Notice. After several enquiries, and one year later, by letter dated June 18, 2009 this Office was informed by the Director that **"the Enforcement Notice was served and the matter is being forwarded to our Legal Services Unit for preparation of the Complaint Without Oath and Summons for filing at Court."** The Complainant was so advised by letter dated July 3, 2009.

The Office continued to liaise with the TCPD on the matter. The Director, TCPD eventually responded to numerous reminders by memoranda dated August 2010, and September 7, 2010 advising that **"the matter was not forwarded to the Legal Services Unit in a timely manner so that the Complaint Without Oath and Summons cannot now be done."**

The Director, TCPD then informed the Office that the matter would be closed. By letter dated **September 16, 2010** the Director was asked to provide the reasons for not submitting the matter to the Legal Services Unit in a timely manner since the TCPD had ample time in which to do so. To date, this Office has not received a response from the Director.

CASE NOTES

MINISTRIES OF PUBLIC ADMINISTRATION AND EDUCATION/
DIVISION OF EDUCATION, YOUTH AFFAIRS AND SPORTS,
TOBAGO HOUSE OF ASSEMBLY

DELAY IN OBTAINING PAYMENT FOR ARREARS OF INCREMENTS

The Complainant is a Teacher I employed by **The Division of Education, Youth Affairs and Sport (D.E.Y.A.S.)**, Tobago House of Assembly. In 2002 she was awarded a three (3) year National Scholarship to attend the University of the West Indies (U.W.I.). During the period when the Complainant was on scholarship she was paid an allowance equivalent to the salary she had been receiving as a Teacher I.

When the Complainant's studies were completed in 2005, she returned to work in the Division of Education, Youth Affairs and Sports where she continued to be remunerated at the first point on the salary scale for Teachers I. She had not been paid outstanding increments or the new salary she would have been entitled to based upon the Agreement for New Terms and Conditions of Employment that had been negotiated by her representative union, the Trinidad and Tobago Unified Teachers Association (T.T.U.T.A.). She therefore requested that the D.E.Y.A.S. pay her all outstanding increments and arrears of salary as well as place her at the correct point on the salary scale.

Although she did not immediately get a response to her request, the Complainant was eventually informed in 2008 by the D.E.Y.A.S. that incremental certificates for the period 2002 to 2005 had been forwarded on her behalf to the Ministry of Public Administration. The Ministry of Public Administration subsequently informed the Complainant that it had been unable to proceed with her request, because it did not receive her file from the Scholarship Section of the Ministry of Education. When the Complainant had tried for over five years without success to have the outstanding increments paid and her salary adjusted to the correct point on the salary scale, she sought the assistance of the Ombudsman in June 2010.

In July 2010 the Ombudsman wrote to the Permanent Secretary of the Ministry of Education as well as the Administrator of the D.E.Y.A.S. and requested that those two entities provide her with a report on whether the Complainant was in fact entitled to increments and adjustments to her salary.

She further requested that if the Complainant was entitled to said payments then the Ministry and the D.E.Y.A.S. should provide her with the reasons for the inordinate delay in effecting said payments since according to Section 36 (3) of the Public Service Commission Regulation of 1966: **"An annual increment shall not be suspended, except on the authority of the commission."** In a letter dated October 14, 2010 the Ministry of Education informed the Ombudsman that the matter was receiving attention and that she would be kept informed of further developments. However, despite several reminders, the D.E.Y.A.S. as of December 31, 2010 has not responded to the Ombudsman's queries and the matter remains unresolved.

Note: In the course of this investigation it was discovered that there are several other teachers who are similarly affected.

CASE NOTES

MINISTRY OF WORKS AND TRANSPORT

DELAY IN PROCESSING WRITE-OFF OF OVERPAYMENT

The Complainant was employed with the Ministry of Works and Transport, Licensing Office from 1979 to January 2010, a period of thirty years, before he retired. In 2000 he was informed by the Ministry that he had been overpaid in the sum of twenty-four thousand, two hundred and thirty-eight dollars and forty-three cents (\$24,238.43) for the period July 1, 1984 to December 31, 1999 because his salary had been placed at an incorrect point on the salary scale.

Upon receiving this letter, the Complainant at once requested details of the alleged overpayment. He stated that prior to being employed as a Motor Vehicle Officer I he held the post of City Constable for eight years which included him being placed in Range 24C. He added that the transfer in 1979 resulted in his already being qualified to be in Range 24C.

The Chief Personnel Officer Circular Memorandum P.D. 2/27/16 of 1988 reassigned the post of Motor Vehicle Officer I from Range 21 to Range 24C with the stipulation that one had to serve five years in Range 21 before being placed in Range 24C. The Complainant stated that he was already in Range 24C.

The Complainant therefore outlined his case that the question of serving another five years in the post to qualify to be in Range 24C did not apply to him as his posting was a transfer which preserved his Benefits and Conditions in the post of City Constable. He reiterated that the principle used in fixing salary on transfer was based on a **Personnel Circular P.D. 2/27/16** dated 1988 which stated that an officer should not lose or be placed in a disadvantaged position on transfer. He therefore requested that the overpayment of salary be written off.

By memorandum dated August 14, 2000 the Chief Personnel Officer advised the Permanent Secretary, Ministry of Works and Transport that following a review of the matter, the ruling given in their memorandum PD: 2/57/1T dated October 8, 1984 still stood. His movement was from a higher to a lower position, and he was entitled to receive incremental credits in the post of Motor Vehicle Officer I.

After attempting to resolve the matter of the write off of the overpayment without success, the Complainant then visited the office in 2003. The matter was brought to the attention of the Permanent Secretary, Ministry of Works in November 2003. Efforts to have this matter addressed continued for the next two years.

In 2005, the Ministry of Works and Transport stated that it was still working on the matter as there were some queries which needed to be addressed before the complaint could be determined. The Ombudsman so advised the Complainant.

I convened several meetings in 2006 and 2007 in an attempt to address the complaint and arrive at a solution.

CASE NOTES

After reviewing the contents of a letter to this office dated December 7, 2006 from the **Auditor III, Internal Audit** on the matter of overpayment, it appeared that the Complainant had been consistently paid at the incorrect point on the salary scale. I noted that the overpayment in the Complainant's case was the fault of the Accounting Officer.

By letters dated October 8, 2007 and May 2008 the Ministry advised that an approach would be made to Cabinet for the write off of the overpayment of salary.

In July 2009, the Permanent Secretary, Ministry of Works and Transport indicated that Comptroller of Accounts would be approached with respect to the write off of the overpayment in accordance with Finance Circular No. 2 dated March 2004, which gave the Treasury the authority to write off overpayments not exceeding twenty-five thousand dollars (\$25,000.00). This office started pursuing the matter with the Financial Management Unit of the Comptroller of Accounts.

In April 2010, the Comptroller of Accounts requested the Permanent Secretary, Ministry of Works and Transport to submit the following documents and information:

- (a) Report of Overpayment in accordance with Part IX, paragraph 164 of the Financial Instructions 1965;**
- (b) A detailed Statement of Overpayment duly certified by the Internal Audit;**
- (c) Letter to Officer informing him/her of overpayment;**
- (d) Letter from Officer requesting write-off;**
- (e) Date of Officer's retirement;**
- (f) Steps (if any) taken to recover the overpayment; and**
- (g) Whether the write-off was recommended (explanation should be given to justify recommendation).**

Despite repeated reminders from both the Comptroller of Accounts and the Office of the Ombudsman, the Ministry of Works and Transport still has not sent the required documents and information to the Comptroller of Accounts for necessary action.

The matter is still being pursued.

CASE NOTES

MINISTRY OF WORKS AND TRANSPORT

DELAY IN PAYMENT OF OVERTIME ALLOWANCES OWED

The Complainants, current and former daily paid employees of the Ministry of Works and Transport, (Mechanical Services Division), sought the Ombudsman's assistance to obtain outstanding payment of overtime allowance owed to them for the period 1986 – 1992.

The Complainants were unsuccessful in their attempts to obtain the allowance to which they claimed to be entitled having worked through their lunch hour during the period 1986-1992.

In 2008 the Permanent Secretary, Ministry of Works and Transport was requested to comment on this matter. Subsequently, several reminders were issued to the Permanent Secretary to obtain information about this complaint.

Since the information was not forthcoming from the Employee Relations Division, on May 12, 2010 this Office requested and received from the Mechanical Services Division, Ministry of Works and Transport documentation which indicated the overtime hours worked by the Complainants. This was subsequently forwarded to the Employee Relations Division of the Ministry on July 19, 2010.

To date, there has been no response from that Division and payment of the allowance to the Complainants remains outstanding.

The matter is still being pursued.

CASE NOTES

MINISTRY OF PLANNING, HOUSING AND THE ENVIRONMENT
HOUSING DEVELOPMENT CORPORATION

SUB-STANDARD ENGINEERING HAS HOME-OWNER REELING

In 2009, the Complainant was allocated a housing unit at Southern Gardens, Warden Road, Point Fortin by the Housing Development Corporation (HDC). At the time of the allocation, the Complainant pointed out several structural defects to the HDC officials. These included cracks throughout the unit. She was given the assurance that the unit could have been repaired while occupied. If she did not accept and occupy same within one month, the unit would have been allocated to another interested applicant.

Given the assurance that the defects would be corrected and the conditionality expressed, the Complainant reluctantly took occupancy on September 12, 2009. Since that date she had made repeated requests to the HDC to have the house repaired although its officials were of the view that it would be useless to repair the cracks due to the poor foundation of the house.

Thereafter, she sought my assistance on August 11, 2010. Having carefully examined this complaint, I felt constrained to conduct a site visit on August 25, 2010. I was appalled at the condition of the housing unit that was allocated to the Complainant. It was evident, even to the layman, that this unit was poorly constructed and a danger to its occupants. There were visible cracks throughout the building, some within close proximity to electrical fittings, this factor posing a potential fire hazard.



CASE NOTES

Additionally, I observed that there was an absence of a proper drainage system within the property and the back of the house was water logged even though it had not rained for several days. It would appear that the lack of proper drainage compromised the integrity of the structure, which undoubtedly would prove unable to withstand storm and earthquake activity. Furthermore, this structure contained several other noticeable defects, some of which are listed hereunder:

- **Missing ceiling tiles**
- **Missing louvre blades**
- **Broken washtub**
- **Lopsided, broken kitchen cupboards**
- **Missing toilet seat**
- **Missing shower rose**
- **Cracks on the concrete walkway surrounding the unit**
- **Broken pathway leading from the roadway onto the property**

I was informed that a unit at No. 16 Cassia Street in the same development was subsequently identified as a possible alternative unit for the Complainant. I also visited this unit and observed with concern that this too possessed cracks, though not as large as those in the house the Complainant currently occupies. I was informed by the Complainant that some of the cracks in her present residence started out as cracks of the sizes seen in the possible alternative unit.



The Complainant continues to honour her mortgage obligations to the HDC for a substandard house, and I am of the view that the Complainant did not receive value for money.

The plight of this Complainant was brought to the attention of the Managing Director, HDC in my letter to her dated September 20, 2010.

Subsequently, a reminder was issued on December 6, 2010.

Notwithstanding the above, I am yet to receive the HDC's response in this matter.

This matter is still being actively pursued.



APPENDICES

APPENDIX I

OFFICE OF THE OMBUDSMAN VISION STATEMENT

We are a strong, respected, independent institution dedicated to eliminating bureaucratic injustice and the development of an accountable, transparent, and participatory Public Service, for the benefit of all persons in Trinidad and Tobago.

OFFICE OF THE OMBUDSMAN MISSION STATEMENT

To ensure the protection of citizens and non-citizens against bureaucratic injustice by efficiently and effectively investigating complaints in an impartial and expeditious manner, educating the public about their rights and advocating for improving the quality and standards of public administration in Trinidad and Tobago.

APPENDIX II - Act No. 4 of 76

EXTRACT FROM THE CONSTITUTION OF TRINIDAD & TOBAGO

PART II - OMBUDSMAN

91. (1) There shall be an Ombudsman for Trinidad and Tobago who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any occupation for reward other than the duties of his office.

Appointment and conditions of office.

(2) The Ombudsman shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(3) The Ombudsman shall hold office for a term not exceeding five years and is eligible for reappointment.

(4) Subject to subsection (3), the Ombudsman shall hold office in accordance with section 136.

(5) Before entering upon the duties of his office, the Ombudsman shall take and subscribe the oath of office before the Speaker of the House of Representatives.

First Schedule.

92. (1) The Ombudsman shall be provided with a staff adequate for the efficient discharge of his functions.

Appointment of staff of Ombudsman.

(2) The staff of the Ombudsman shall be public officers appointed in accordance with section 121(8).

93. (1) Subject to this section and to sections 94 and 95, the principal function of the Ombudsman shall be to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

Functions of Ombudsman.

(2) The Ombudsman may investigate any such matter in any of the following circumstances:

(a) where a complaint is duly made to the Ombudsman by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;

(b) where a member of the House of Representatives requests the Ombudsman to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice;

(c) in any other circumstances in which the Ombudsman considers that he ought to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.

(3) The authorities other than departments of Government to which this section applies are—

(a) local authorities or other bodies established for purposes of the public service or of local Government;

APPENDIX II - Act No. 4 of 76 Cont'd

EXTRACT FROM THE CONSTITUTION OF TRINIDAD & TOBAGO

- (b) authorities or bodies the majority of whose members are appointed by the President or by a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds;
- (c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of Government;
- (d) such other authorities as may be prescribed.

*Restrictions on matters
for investigations.*

- 94.** (1) In investigating any matter leading to, resulting from or connected with the decision of a Minister, the Ombudsman shall not inquire into or question the policy of the Minister in accordance with which the decision was made.
- (2) The Ombudsman shall have power to investigate complaints of administrative injustice under section 93 notwithstanding that such complaints raise questions as to the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals.
- (3) Where in the course of an investigation it appears to the Ombudsman that there is evidence of any corrupt act by any public officer or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.
- (4) The Ombudsman shall not investigate—
- (a) any action in respect of which the complainant has or had—
 - (i) a remedy by way of proceedings in a Court; or
 - (ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a Court; or
 - (b) any such action, or action taken with respect to any matter, as is described in the Third Schedule.
- (5) Notwithstanding subsection (4) the Ombudsman—
- (a) may investigate a matter notwithstanding that the complainant has or had a remedy by way of proceedings in a Court, if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;
 - (b) is not in any case precluded from investigating any matter by reason only that it is open to the complainant to apply to the High Court for redress under section 14 (which relates to redress for contravention of the provisions for the protection of fundamental rights).

Third Schedule.

APPENDIX II - Act No. 4 of 76 Cont'd

EXTRACT FROM THE CONSTITUTION OF TRINIDAD & TOBAGO

95. In determining whether to initiate, continue or discontinue an investigation, the Ombudsman shall, subject to sections 93 and 94, act in his discretion and, in particular and without prejudice to the generality of this discretion, the Ombudsman may refuse to initiate or may discontinue an investigation where it appears to him that—

Discretion of Ombudsman.

- (a) a complaint relates to action of which the complainant has knowledge for more than twelve months before the complaint was received by the Ombudsman;
- (b) the subject matter of the complaint is trivial;
- (c) the complaint is frivolous or vexatious or is not made in good faith; or
- (d) the complainant has not a sufficient interest in the subject matter of the complaint.

96. (1) Where a complaint or request for an investigation is duly made and the Ombudsman decides not to investigate the matter or where he decides to discontinue an investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision.

Report on investigation.

(2) Upon the completion of an investigation the Ombudsman shall inform the department of government or the authority concerned of the results of the investigation and, if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of government or the authority of the reasons for his opinion and make such recommendations as he thinks fit. The Ombudsman may in his original recommendations, or at any later stage if he thinks fit, specify the time within which the injustice should be remedied.

(3) Where the investigation is undertaken as a result of a complaint or request, the Ombudsman shall inform the person who made the complaint or request of his findings.

(4) Where the matter is in the opinion of the Ombudsman of sufficient public importance or where the Ombudsman has made a recommendation under subsection (2) and within the time specified by him no sufficient action has been taken to remedy the injustice, then, subject to such provision as may be made by Parliament, the Ombudsman shall lay a special report on the case before Parliament.

(5) The Ombudsman shall make annual reports on the performance of his functions to Parliament which shall include statistics in such form and in such detail as may be prescribed of the complaints received by him and the results of his investigations.

APPENDIX II - Act No. 4 of 76 Cont'd

EXTRACT FROM THE CONSTITUTION OF TRINIDAD & TOBAGO

Power to obtain evidence.

- 97.** (1) The Ombudsman shall have the powers of the High Court to summon witnesses to appear before him and to compel them to give evidence on oath and to produce documents relevant to the proceedings before him and all persons giving evidence at those proceedings shall have the same duties and liabilities and enjoy the same privileges as in the High Court.
- (2) The Ombudsman shall have power to enter and inspect the premises of any department of government or any authority to which section 93 applies, to call for, examine and where necessary retain any document kept on such premises and there to carry out any investigation in pursuance of his functions.

Prescribed matters concerning Ombudsman.

- 98.** (1) Subject to subsection (2), Parliament may make provision—
- (a) for regulating the procedure for the making of complaints and requests to the Ombudsman and for the exercise of the functions of the Ombudsman;
 - (b) for conferring such powers on the Ombudsman and imposing such duties on persons concerned as are necessary to facilitate the Ombudsman in the performance of his functions; and
 - (c) generally for giving effect to the provisions of this Part.
- (2) The Ombudsman may not be empowered to summon a Minister or a Parliamentary Secretary to appear before him or to compel a Minister or a Parliamentary Secretary to answer any questions relating to any matter under investigation by the Ombudsman.
- (3) The Ombudsman may not be empowered to summon any witness to produce any Cabinet papers or to give any confidential income tax information.
- (4) No complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Ombudsman.
- (5) No proceedings, civil or criminal, may lie against the Ombudsman, or against any person holding an office or appointment under him for anything he may do or report or say in the course of the exercise or intended exercise of the functions of the Ombudsman under this Constitution, unless it is shown that he acted in bad faith.
- (6) The Ombudsman, and any person holding office or appointment under him may not be called to give evidence in any Court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.
- (7) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any enquiry by or proceedings before an Ombudsman under this Constitution is privileged in the same manner as if the enquiry or proceedings were proceedings in a Court.
- (8) No proceeding of the Ombudsman may be held bad for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of an Ombudsman is liable to be challenged, reviewed, quashed or called in question in any Court.

APPENDIX II - Act No. 4 of 76 Cont'd

THIRD SCHEDULE - MATTERS NOT SUBJECT TO INVESTIGATION

1. Action taken in matters certified by the Attorney General to affect relations or dealings between the Government of Trinidad and Tobago and any other Government or any International Organisation. [Section 94(4)(b)].
2. Action taken in any country or territory outside Trinidad and Tobago by or on behalf of any officer representing or acting under the authority of the Government of Trinidad and Tobago.
3. Action taken under any law relating to extradition or fugitive offenders.
4. Action taken for the purposes of investigating crime or of protecting the security of the State.
5. The commencement or conduct of civil or criminal proceedings before any Court in Trinidad and Tobago or before any international Court or tribunal.
6. Any exercise of the power of pardon.
7. Action taken in matters relating to contractual or other commercial transactions, being transactions of a department of government or an authority to which section 93 applies not being transactions for or relating to -
 - (a) *the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;*
 - (b) *the disposal as surplus of land acquired compulsorily or in circumstances in which it could be acquired compulsorily.*
8. Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service in any office or employment in the public service or under any authority as may be prescribed.
9. Any matter relating to any person who is or was a member of the armed forces of Trinidad and Tobago in so far as the matter relates to -
 - (a) *the terms and conditions of service as such member; or*
 - (b) *any order, command, penalty or punishment given to or affecting him in his capacity as such member.*
10. Any action which by virtue of any provision of this Constitution may not be enquired into by any Court.

APPENDIX II - Laws of Trinidad & Tobago

CHAPTER 2:52 - OMBUDSMAN ACT

An Act to make provision for giving effect to Part 2 of Chapter 6 of the Constitution
(Assented to 24th May, 1977)

ENACTMENT	ENACTED by the Parliament of Trinidad and Tobago as follows:
SHORT TITLE	1. This Act may be cited as the Ombudsman Act.
MODE OF COMPLAINT	2. (1) All complaints to the Ombudsman and requests for investigation by him shall be made in writing. (2) Notwithstanding anything provided by or under any enactment, where any letter written by any person detained on a charge or after conviction of any offence is addressed to the Ombudsman, it shall be immediately forwarded, unopened to the Ombudsman by the person or the time being in charge of the place where the writer is detained.
PROCEDURE IN RESPECT OF INVESTIGATION	3. (1) Where the Ombudsman proposes to conduct an investigation under Section 93 (1) of the Constitution he shall afford to the principal officer of the department or authority concerned, an opportunity to make, orally or in writing as the Ombudsman thinks fit, representations which are relevant to the matter in question and the Ombudsman shall not, as a result of such an investigation, make any report or recommendation which may adversely affect any person without his having had an opportunity to make such representations. (2) Every such investigation shall be conducted in private. (3) It shall not be necessary for the Ombudsman to hold any hearing and, subject as hereinbefore provided, no person shall be entitled as of right to be heard by the Ombudsman. The Ombudsman may obtain information from such persons and in such manner, and make such inquiries as he thinks fit. (4) Where, during or after any investigation, the Ombudsman is of the opinion that there is evidence of any breach of duty, misconduct or criminal offence on the part of any officer or employee of any department or authority to which Section 93 of the Constitution applies, the Ombudsman may refer the matter to the Authority competent to take such disciplinary or other proceedings against him as may be appropriate. (5) Subject to this Act, the Ombudsman may regulate his procedure in such manner as he considers appropriate in the circumstances of the case. (6) Where any person is required under this Act by the Ombudsman to attend before him for the purposes of an investigation, the Ombudsman shall cause to be paid to such person out of money provided by Parliament for the purpose, the fees, allowances and expenses, subject to qualifications and exceptions corresponding to those, that are for the time being prescribed for attendance in the High Court, so, however, that the like functions as are so prescribed and assigned to the Registrar of the Supreme Court of Judicature shall, for the purposes of this sub-section, be exercisable by the Ombudsman and he may, if he thinks fit, disallow, in whole or in part, the payment of any amount under this subsection. (7) For the purposes of Section 93 (2) of the Constitution a complaint may be made by a person aggrieved himself or, if he is dead or for any reason unable to act for himself, by any person duly authorized to represent him. (8) Any question whether a complaint or a request for an investigation is duly made under this Act or under Part 2 of Chapter 6 of the Constitution shall be determined by the Ombudsman.

APPENDIX II - Laws of Trinidad & Tobago

CHAPTER 2:52 - OMBUDSMAN ACT

CONT'D

EVIDENCE

4. (1) The power of the Ombudsman under Section 97 of the Constitution to summon witnesses and to compel them to give evidence on oath and to produce documents shall apply whether or not the person is an officer; employee or member of any department or authority and whether or not such documents are in the custody or under the control of any department or authority.
- (2) The Ombudsman may summon before him and examine on oath:
- (a) any person who is an officer or employee or member of any department or authority to which Section 93 of the Constitution applies or any authority referred to in the Schedule to this Act and who in the Ombudsman's opinion is able to give any relevant information;
 - (b) any complainant; or
 - (c) any other person who in the Ombudsman's opinion is able to give any relevant information, and for that purpose may administer an oath. Every such examination by the Ombudsman shall be deemed to be a judicial proceeding for the purposes of the Perjury Ordinance.
- (3) Subject to subsection (4) no person who is bound by the provisions of any enactment, other than the Official Secrets Act, 1911 to 1939 of the United Kingdom In so far as it forms part of the law of Trinidad and Tobago, to maintain secrecy in relation to, or not to disclose, any Matter shall be required to supply any information to or answer any Questions put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or paper or thing relating to it, where compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.
- (4) With the previous consent in writing of any complainant, any person to whom subsection (3) applies may be required by the Ombudsman to supply any information or answer any question or produce any document or paper or thing relating only to the complainant, and it shall be the duty of the person to comply with that requirement.
- (5) Except on the trial of any person for an offence under the Perjury Act in respect of his sworn testimony, or for an offence under Section 10, no statement made or answer given by that or any other person in the course of any inquiry or any proceedings before the Ombudsman under the Constitution or this Act shall be admissible in evidence against any person in any court or at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.
- (6) No person shall be liable to prosecution for an offence against the Official Secrets Act, 1911 to 1939 of the United Kingdom, or any written law other than this Act by reason of his compliance with any requirement of the Ombudsman under this section.
5. (1) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document or paper or thing –
- (a) might prejudice the security, defence or international relations of Trinidad and Tobago
 - (b) including Trinidad and Tobago relations with the Government of any other country or with any international organizations;
 - (c) will involve the disclosure of the deliberations of Cabinet; or
 - (d) will involve the disclosure of proceedings of Cabinet or any Committee of Cabinet, relating to matters of a secret or confidential nature, and could be injurious to the public interest, the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or paper, or thing to be produced.
- (2) Subject to subsection (1), no rule of law which authorises or requires the withholding of any document or paper, or the refusal to answer any question, on the ground that the disclosure of the document or paper or the answering of the question would be injurious to the public interest shall apply in respect of any investigation by or proceedings before the Ombudsman.

APPENDIX II - Laws of Trinidad & Tobago

CHAPTER 2:52 - OMBUDSMAN ACT

CONT'D

<p>SECURITY OF INFORMATION</p>	<p>6. A person who performs the functions appertaining to the Office of the Ombudsman or any office or employment there under –</p> <p>(a) shall regard as secret and confidential all documents, information and things which have been disclosed to any such person in the execution of any provisions of Sections 93 and 96 of the Constitution, so, however, that no disclosure made by any such person in proceedings for an offence under Section 10, or under the Perjury Ordinance by virtue of Section 4(2) or which the Ombudsman considers it requisite to make in the discharge of any of his functions and for the purpose of executing any of the said provisions of Section 3(4) or Section 9, shall be deemed inconsistent with any duty imposed by this paragraph; and</p> <p>(b) shall not be called upon to give evidence in respect of, or produce, any such documents, information or things in any proceedings, other than proceedings mentioned in the exception to paragraph(a)</p>
<p>NOTICE OF ENTRY ON PREMISES</p>	<p>7. Before entering upon any premises pursuant to Section 97(2) of the Constitution the Ombudsman shall notify the principal officer of the department or the authority which the premises are occupied.</p>
<p>DELEGATION OF POWERS</p>	<p>8. (1) With the prior approval in each case of the Prime Minister, functions hereinbefore assigned to the Ombudsman may from time to time, by direction under his hand, be delegated to any person who is appointed to any office or to perform any function referred to in Section 6.</p> <p>(2) No such delegation shall prevent the exercise of any power by the Ombudsman.</p> <p>(3) Any such delegation may be made subject to such restrictions and conditions as the Ombudsman may direct, and may be made either generally or in relation to any particular case or class of cases.</p> <p>(4) Any person purporting to perform any function of the Ombudsman by virtue of a delegation under this section shall, when required to do so, produce evidence of his authority to exercise the power.</p>
<p>REPORTS</p>	<p>9. (1) The Ombudsman may from time to time in the public interest publish reports relating generally to the exercise of his functions or to a particular case or cases investigated by him, whether or not the matters to be dealt with in such reports may have been the subject of a report to Parliament.</p> <p>(2) The form of statistics of complaints received by the Ombudsman and the results of his investigation required by Section 96(5) of the Constitution to be included in the annual report to Parliament by the Ombudsman on the performance of his functions shall be prescribed by regulations made under Section 12.</p> <p>10. A person is liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months who –</p> <p>(a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise of his powers under this Act;</p> <p>(b) without lawful justification or excuse refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act;</p> <p>(c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his powers under this Act; or</p> <p>(d) in a manner inconsistent with his duty under Section 6 (a), deals with any documents, information or things mentioned in that paragraph.</p>
<p>PRESCRIPTION OF AUTHORITIES SUBJECT TO THE OMBUDSMAN'S JURISDICTION</p>	<p>11. (1) The authorities mentioned in the Schedule are authorities to which Section 93(3) (d) of the Constitution applies.</p> <p>(2) The President may, by Order, amend the Schedule by the addition thereto or deletion therefrom of any authorities or the substitution therein, for any authorities of other authorities.</p>
<p>REGULATIONS</p>	<p>12. The President may make regulations for the proper carrying into effect of this Act, including in particular, for prescribing anything required or authorised to be prescribed.</p>

APPENDIX II - Schedule Of Monthly Community Visits



Office of the
ombudsman
OF TRINIDAD & TOBAGO



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Schedule Of Monthly Community Visits

Schedule of Monthly Community Visits

The Office of the Ombudsman maintains a schedule of visits to communities to facilitate individuals with complaints against state agencies. Anyone wishing to lodge a complaint, or to seek follow-up consultation with regard to complaints they may have already filed, may visit the Ombudsman's representative at:

Area	Location	Date	Time
Roxborough (Tobago)	Office of the Justice of the Peace, at the Court House facility	Every three months on the second Tuesday of the month	9:30 a.m. to 12 noon
Point Fortin	The Engineering Services Building, Pt. Fortin Borough Corporation	2 nd Wednesday each month	9:30 a.m. to 12 noon
Chaguanas	Deputy Mayor's Office, cor. Taitt & Cumberbatch Streets, Chaguanas	2 nd Friday each month	9:30 a.m. to 12 noon
Siparia	Siparia Regional Corporation	3 rd Monday each month	9:30 a.m. to 12 noon
Sangre Grande	Technical Building, Old Railway Road	Last Tuesday each month	9:30 a.m. to 12 noon
Rio Claro	Mayaro/Rio Claro Regional Corporation, cor. Doughdeen St. & de Verteuil Street, Rio Claro	Last Thursday each month	9:30 a.m. to 12 noon
Couva	Couva/Tabaquite/Talparo Regional Corporation (main building)	3 rd Wednesday each month	9:30 a.m. to 12 noon

There is also a fulltime branch unit of the **Office of the Ombudsman in Scarborough, Tobago**, located in the **Caribana Building**, Bacolet Street, Scarborough. Contact info there is **639-1303** (phone) and **639-1302** (phone/fax).
E-mail: tgoregion@ombudsman.gov.tt

Staff at another full time branch serve the public at the corner of Hobson & Kelshall Streets in San Fernando . Contact info: **652-6786** (phone) & **652-0404** (fax).
E-mail: sandoregion@ombudsman.gov.tt

APPENDIX IV



ATLANTIC OCEAN

CARIBBEAN SEA

USA

N

S

W

E

NICARAGUA

COSTA RICA

PANAMA

COLOMBIA

VENEZUELA

GUYANA

NASSAU

THE BAHAMAS

CUBA

CAYMAN ISLANDS

JAMAICA

DOMINICAN REPUBLIC

HAITI

PUERTO RICO

ANTIGUA & BARBUDA

ST. KITTS & NEVIS

GUADELOUPE

DOMINICA

MARTINIQUE

ST. LUCIA

ST VINCENT & THE GRENADINES

BARBADOS

GRENADA

ARUBA

NETHERLANDS ANTILLES

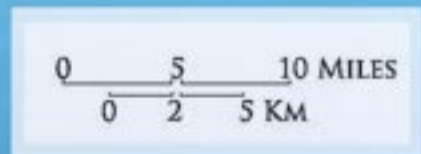
TRINIDAD & TOBAGO

Point of Spain

APPENDIX IV

CARIBBEAN SEA

TOBAGO



TRINIDAD





A Publication of
THE OFFICE OF THE OMBUDSMAN OF TRINIDAD & TOBAGO
132 Henry Street, Port of Spain
Tel: 624-3121 Fax: 625-0717
Website: www.ombudsman.gov.tt
E-mail: feedback@ombudsman.gov.tt

DESIGN & LAYOUT:

Colin Matthews - OUTADABOX GRAPHICS

PHOTOGRAPHY:

Sylvester Stewart & Peter A. Baptiste

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