

REF: BCA 102/109/01(03)

30th December 2013

Hon. Abdoulie Bojang
Speaker of the National Assembly
Independence Drive
Banjul

Honourable Speaker,

SUBMISSION OF 2013 ANNUAL REPORT

I have the esteemed honour and privilege to submit the 10th Report of the Office of the Ombudsman for the period 1st January to 31st December 2013 with pleasure.

The Report is submitted pursuant to Section 163 (2) (f) of the Constitution of the Republic of the Gambia 1997 and Section 15(1) of the Ombudsman Act 1997.

I remain

Yours sincerely

.....
Mrs. FatouNjie - Jallow
Acting Ombudsman

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CHAPTER 1

1.1 REMARKS BY THE OMBUDSMAN

The creation of an Ombudsman Office in the Gambia is a Constitutional requirement, as stated in Chapter X (ten) Section 163 of the 1997 Constitution of The Republic of The Gambia.

Honourable Speaker the role of the Office of the Ombudsman is to ensure fair and good administration and respect for human rights in government departments, and other public bodies. The Ombudsman serves as a safety net, an early warning system and a catalyst for change. The Ombudsman ensures that no unfair practices hide in the shadows as the office monitors the progress of every complaints initiated by the complainant. The Ombudsman also ensures administrative justice and observance of human rights by responding to complaints that public authorities have not acted lawfully, fairly and reasonably. The Ombudsman improves the standard of public administration by identifying causes of problems and making recommendations for changes to procedures, practices and policies to prevent similar problems occurring. This contributes to the quality of public confidence in government. The Ombudsman therefore sees its Mission as to promote good governance through the elimination of corruption, removal of mismanagement and abuse of power in public offices.

A crucial foundation stone of the Ombudsman is the independence of the office from the organs of government. This had been buttressed by the president of the Republic at the swearing in ceremony of the first Ombudsman and Deputies and I quote “.... ***I challenged them to be vigorous and fearless in their investigation and be genuinely independent from the institutions of Government they are investigating. This is a vital and fundamental ingredient of a mature system of justice.***”

During the year under review, the office experienced some changes in management and some new staff appointments were made. The former Ombudsman Mr.Alhagie B. Sowe, handed over to Mrs.FatouNjieJallow the Deputy Ombudsman on 1st August 2013 as Acting Ombudsman. The former Director of Finance contract appointment ended at the same time. There were several positions that required to be filled. To ensure transparency in the recruitment process, the vacant positions were advertised in the leading newspapers and the national radio station. A high level committee including a staff from PMO and resource persons for the subject matter were always present in each selection which was chaired by the Acting Ombudsman. By the end of the year, almost 90% of all vacancies were filled with competent staff.

Since its inception in 1999, the office is continuously striving to live up to its expectation providing free of charge services to public officers aggrieved due to maladministration, apathy, carelessness and negligence by authorities in executing their duties. The office has over the years addressed numerous issues and gave advice to hundreds in the private sector whose cases cannot be investigated because the office does not have the jurisdiction. The services of the Ombudsman are spread over the length and breadth of the country to provide free and speedy relief to people at their door steps. The Office has also

strengthened its sensitisation programmes by reaching people through the television and the establishment of an office website to be launched by the end of the year.

However, despite the numerous gains the office needs to do more to raise awareness on its role and functions. In this vein, the Office will continue to strengthened its sensitization programs to reach people through Institutional clinics, community workshops, television and radio programmes and through the establishment of an office website to be launched by the end of the year. The Office will endeavour to live up to expectation by bringing justice and relief to those who look up to its services to enjoy a conducive working environment free of maladministration, injustice and discrimination

1.2 THE REPORT

This is the 10th annual report of the Ombudsman and it covers the period 1st January to 31st December 2013.

During the year under review, the Office registered cases from all regions of the country and continued to successfully settle cases registered. The compliance rate on the Ombudsman recommendations on cases investigated continued to be very high.

A total of 95 cases were registered and investigations were conducted on all cases registered. 52 complaints were registered at headquarters, out of these 17 cases were satisfactorily resolved in favour of the complainants, 13 dismissed after full investigation due to lack of merit, 10 discontinued due to the fact they were frivolous and made in good faith and 10 pending.

9 complaints were registered in Kerewan Office out these 6 cases were settled in favour of the complainants, 2 dismissed, and 1 pending.

15 complaints were registered in Mansakonko Office out of these 11 cases were settled in favour of the complainants, 2 dismissed, and 2 pending.

19 complaints were registered in the Basse Office out of these 15 were settled in favour of the complainants, 2 dismissed and 2 pending.

The institutions with the highest number of complaints during the period were:

- Ministry of Basic and Secondary Education 7
- Gambia Ports Authority 4
- Social Security and Housing Finance Corporation 4

1.3 ACTIVITIES OF THE OFFICE

In January 2013, the Governor of North Bank Region inaugurated our new office in Kerewan. The launching took the form of a workshop that brought together representatives of communities and institutions in the North Bank Region.

During the period under review the Office undertook a number of sensitisation activities. The activities were primarily held in the North Bank Region. The rationale was to raise the awareness of the people regarding what services the new office had to offer.

Twenty-five community clinics were organized in the villages of NjabaKunda, Saliken, Kuntair, NdunguKebbeh, Essau, Amdalai, Farrafenni, Albrea/Jufereh, Sika, Berending, Darsilami, Kerr Jarga, FassNjaga Choi, Munyagen, jokadubali, Sitanunku, Bakalar, Aljamdu, Illiasa, SuwareKunda, Njawara, KekutaKunda, Nookunda, Saaba, and NgainSanjal.

six institutional clinics were also conducted in the North Bank Region. The institutions covered were Amdalai border post, for all the different security units posted there; Farrafenni Senior Secondary School, Farrafenni Lower Basic School, Farrafenni Police Station, for the Police, Immigration, and Drug Enforcement Agencies; Essau Health Centre and Barra Police Station where the various security units were also brought together.

A number of community radio programmes were held in Farrafenni Community Radio and North Bank Community Radio in Kerewan. A total of four hours of air time were bought from each of these radios at different times. All the programmes were all phone-in giving the rural communities a chance to participate. The sensitisation activities were very successful as a result more complaints were registered during the meetings, thus bringing the services of the ombudsman to the door step of the grassroots.

In terms of capacity building, Deputy Ombudsman Mrs FatouNjie- Jallow attended a training programme for "Ombudsman and Deputies-Optimising Performance for Institutional Excellence" organised by the Governance and Management Service International, UK from 8th -22nd April 2013. The programme was meant to assist Ombudsmen and deputy ombudsmen to understand and deliver their role amidst challenges that confront them in an ombudsman environment.

Mr. Kebba Keita Senior Investigator participated in the Anti-corruption Training organized by The International Ombudsman Institution (IOI) from the 4th to 15th November 2013 in Lauxenburg, Austria.

The Office also took part in the training programme for investigators "Sharpen Your Teeth" organised by the International Ombudsman Institute (IOI) and the African Ombudsman Research Centre (AORC). The programme which was held in Lusaka, Zambia from 11-16 November 2013 was attended by Principal Investigator, Lamin Saidy Khan and Investigator, Amadou Leigh. The training was designed to enhance the investigative skills of ombudsman investigators.

On the international arena, the Office continued to network and participate in the activities of international associations to which it belongs; namely Africa Ombudsman and Mediators Association (AOMA) and the International Ombudsman Institute (IOI).

In light of the above, the Office with other member countries, bid for hosting of the 11th IOI World Conference slated for 2016. Fortunately, the Gambia was shortlisted with three other countries: Latvia, Tanzania and Thailand, The Government of the Gambia was highly supportive of the Office's bid. A team from the Office travelled to defend the bid before the IOI Board in Vienna, Austria in April 2013. However, Thailand was chosen to host the conference in order to give Asia a chance, as the only continent that has never hosted the IOI World Conference before.

The Office had a major boost with the provision of a generator from government through the assistance of Taiwan. With the installation of this generator, we have been able to work without the usual interruptions as a result of frequent power outages.

1.4 CONSTRAINTS

Over the years government demonstrated great commitment in terms of resources to enable the Office deliver its mandate efficiently through increased budgetary allocation. However, some of the perennial issues still remain.

In terms of capacity building, the office has been able to train members of staff to diploma, bachelors and bachelor of law levels using its own budget and through the support of Personnel Management Office. However, we are still not able to train our senior staff to master's level because of financial constraints.

In the area of decentralization, we are still not able to have our own quarters and offices in the regions. The regional offices are being housed in the Governors offices and other institutions' premises.

The office has been allocated a plot of land at the Kanifing Institutional Development Area and in Mansakonko. The office needs funds in order to develop these plots of land.

There is still need to have additional vehicles to ease the transport inadequacy.

1.5 WAY FORWARD

Despite the gains registered in 2013, the Office has lofty plans for the year ahead. These include:

- Continuous capacity building for both long term and short term training to other Ombudsman Offices
- Visiting Prisons and Police cells.
- Visiting mental health homes and hospitals
- Creation of a website for sensitization and for receiving online complaints.
- Nationwide Sensitization to create awareness on the role and functions of the Ombudsman using TV adverts, radio programmes, clinics and "bantabas"
- Creation of a Newsletter on activities of the Ombudsman
- Expanding the mandate of the Ombudsman to include the Private Sector
- Implementation of Section 223 of the 1997 Constitution –Declaration of Assets by Public Officers
- The Office will also continue to work with the Personnel Management Office towards attaining our objective of creating a crop of highly-trained personnel for greater efficiency through higher training to master's level.

The Office will continue to network and collaborate with other institutions and partners to offer its services in line with PAGE and Vision 2020 and in taking its services to the doorsteps of the Gambian people.

CHAPTER 2

2.1: STATEMENT OF PURPOSE

The Office of the Ombudsman is determined to carry out its role as an instrument of administrative justice and human rights with utmost transparency. It will remain firm to its task of promoting fairness and the rights of ordinary individuals in the administrative process of The Gambia. This task will be diligently carried through without partiality to any Government institution; and investigations will continue to be conducted with the vigour and fearlessness with which this Office was charged since its inception.

2.2 AIMS AND OBJECTIVES

The Institution's main objectives are:

- To subject Government's use of power to close scrutiny and so help create an environment within the civil sector in which public officers, irrespective of their hierarchy, would refrain from unjust procedures.
- To play the balancing act not only to enable public servants to understand how they can do their job better and thereby improve the standard of services to the public, but also to enhance the public understanding why Government takes certain decisions.
- To dispense administrative justice through protocols that evolve to ensure fair, reasonable, expeditious administration of the Public Sector by using **the reactive model**, that is, wait for complaints and act on them, and **the proactive model**, that is, seek out matters of concern and initiate investigations.
- To put civility, reasonableness and procedural fairness at the centre stage of public officers' dealings with the citizen.
- To be accessible and responsive to the interests and complaints of all persons particularly those who are vulnerable to unfairness such as the poor, the physically handicapped, the incarcerated, the young, the old and women.
- To be seen to be transparent and, where necessary make public the findings and recommendation of its investigation.

2.3 STRATEGY

Objectives will be achieved by but not limited to the following means:

- Ensuring a culture of respect for the rights and obligations of all people in The Gambia.
- Dispensing and promoting justice in a free, informal and relatively expeditious manner.
- Ensuring fairness, efficiency, transparency, accountability and application of best practices.

- Using a well-trained motivated workforce and the most modern technology.
- Ensuring that the Ombudsman services are easily and freely accessible to all people in The Gambia.
- Creating awareness for the public to understand the role and function of the Ombudsman.

In carrying out all these activities the Office of the Ombudsman will be guided by the need for impartiality and independence and the importance of collaborating with other Government institutions as well as civil society.

2.4 TRAINING

| NAME | DATE OF APPOINTMENT | TYPE OF TRAINING | SPONSORS | STATUS |
|--|-----------------------------|---|-----------------------------------|--|
| Mr. Pierre Simon Secka Director of Investigation | 15 th June 2000 | Degree course at the University of the Gambia | Personnel Management Office | Completed |
| JainabaCamara Jaiteh Complaint's Officer | 16 th April 2007 | Bar at the Law School | The Office of the Ombudsman | Completed |
| Mr Kebba B. Keita Senior Investigator | 16 th April 2007 | IOI Anti- corruption Training from 15 th -18 th September 2013 in Laxenburg Austria | International Ombudsman Institute | Completed |
| LaminSaidykhan Principal Investigator Amadou Leigh Investigator | 1 st May 2009 | Sharpen Your Teeth Training, 14-15 November 2013, Lusaka Zambia | IOI and AORC | completed |
| Mrs FatouJobe Principal Private Secretary | 1 st April 2004 | Advance Diploma in Management Studies at MDI | The Office of the Ombudsman | In progress |
| Mrs FatouNjieJallow Deputy Ombudsman | 5 th March 2012 | Ombudsman/ Deputies- Optimising Performance for Institutional Excellence in London, UK 8 - 22 November 2013 | The Office of the Ombudsman | Completed |
| Nyimasata Dibba | 1 st May 2009 | Masters in International Business at Chang Gung University – Taiwan | Taiwan Government | Study leave without salary from: Sept. |

| | | | | |
|--|--|--|--|-----------------------|
| | | | | 2013 to Sept. 2015 |
|--|--|--|--|-----------------------|

CHAPTER 3

3.1: FINANCIAL ALLOCATION

During the year ended 2013, the Ombudsman Financial Management plan was:

- To review and build on achievements gained over the years in relation to priorities identified.
- To foster good public administration that is accountable, lawful, fair, transparent and systematic
- To improve on subsequent financial performances and to build on expertise and capacity of staff to meet current and future challenges
- To commit to achieving value for money in our procurement practices
- To ensure compliance and consistency in our procurement procedures according to the norms of the Gambia Public Procurement Act, 2000

The approved financial allocation for the office in 2013 was D17, 086,517.00 (seventeen million and eight six thousand five hundred and seventeen dalasi)

The breakdown of allocation from January – December 2013 are as follow:

| | |
|--------------------------|------------------------|
| a. Salaries etc. | D 10,654,627.00 |
| b. Other charges | D 6,431,890.00 |
| c. Total Budget for 2013 | D 17,086,517.00 |

Table showing trend of allocations from 2011 to 2013

| Year | Allocations | Disbursement | Shortfall | Increment | Variance |
|------|-------------|--------------|-----------|-----------|----------|
| 2013 | D17,086,517 | 10,899.00 | 6,187,517 | 4,838,680 | 36.21% |
| 2012 | D12,247,837 | 8,105,974 | 4,241,863 | 2,718,244 | 34.68 % |
| 2011 | D9,529,593 | 7,491,093 | 2,038,500 | - | 21.39% |

Notes

Allocation: These are the amounts approved in the budgets for the Office for the respective years

Disbursement: These are the actual cash amounts disbursed by the Directorate of National Treasury to the Office of the Ombudsman during the years

Shortfall: These comprised of the difference of the approved budget and the actual amount disbursed to the office

Increment: these are the additional funding in the approved budget for the current year over the previous year

Variance: These are the percentage representation of the shortfall over the approved budget for the year.

3.2 OFFICES

The national headquarters of the Office of the Ombudsman is located at 132 Atlantic Road, Cape Point Bakau KSMD. The office also has offices in three Regions of the country.

Kerewan regional office for North Bank Region

Mansakonko regional office for Lower River Region

Basse regional office for Upper River Region

3.3 STAFFING 2013

| NUMBER OF APPROVED POST | DESIGNATION | NAMES OF STAFF | GRADE |
|-------------------------|---|----------------------|-------|
| 1 | OMBUDSMAN | ALHAJIE B.SOWE | FIXED |
| 2 | DEPUTY OMBUDSMAN | VACANT | FIXED |
| 3 | DEPUTY OMBUDSMAN | FATOU NJIE JALLOW | FIXED |
| 4 | 1 DIRECTOR OF INVESTIGATION / ANTI CORRUPTION | PIERRE S. SECKA | 12 |
| 5 | 1 DIRECTOR OF HUMAN RIGHTS/LEGAL OFFICER | VACANT | 12 |
| 6 | 1 PRINCIPAL INVESTIGATOR | VACANT | 11 |
| 7 | 1 PRINCIPAL INVESTIGATOR - ANTI CORRUPTION | LAMIN SAIDYKHAN | 11 |
| 8 | 1 PRINCIPAL INVESTIGATOR - HUMAN RIGHTS | LANDING BONDI | 11 |
| 9 | 1 PRINCIPAL COMMUNICATIONS OFFICER | JUMA K CAMARA | 11 |
| 10 | 1 SENIOR INVESTIGATOR - HUMAN RIGHTS | AJI SERA NDURE | 10 |
| 11 | 1 SENIOR INVESTIGATOR - ANTI CORRUPTION | KEBBA B. KEITA | 10 |
| 12 | 1 COMPLAINTS OFFICER | JAINABA CAMARA | 10 |
| 13 | 1 ADMINISTRATIVE MANAGER | BERTHA S. SAINÉ | 11 |
| 14 | 1 DIRECTOR OF FINANCE | MULIE DUBOIS | 11 |
| 15 | 1 PRINCIPAL PRIVATE SECRETARY | FATOU JOBE | 9 |

| | | | |
|----|------------------------|-----------------|----|
| 16 | 1 SECRETARY | LUCY KENNEY | 7 |
| 17 | 1 RECORDS OFFICER | AWA SAMBA | 6 |
| 18 | 1 PROCUREMENT OFFICER | SEEDY A.S. FAAL | 6 |
| 19 | 1 ACCOUNTS CLERK | EDRISA SALLAH | 5 |
| 20 | 4 DRIVERS | KEBBA BOJANG | 3 |
| 21 | | CHERNO NJIE | 3 |
| 22 | | ALASAN BAH | 3 |
| 23 | | ABDOULIE GAYE | 3 |
| 24 | 1 GARDENER / CARETAKER | DAWDA BADJIE | 3 |
| 25 | 1 MESSENGER | MOMODOU BOJANG | 3 |
| 26 | 2 CLEANERS | HAWA CAMARA | 3 |
| 27 | | HADDY JARJUE | 3 |
| 28 | 2 WATCHMEN | MBEMBA SAWANEH | 3 |
| 29 | | MAMBUNA BADJIE | 3 |
| | | | |
| | BASSE OFFICE | | |
| 30 | 1 SENIOR INVESTIGATOR | SANNA KOLLEY | 10 |
| 31 | 1 INVESTIGATOR | NYIMASATA DIBBA | 8 |
| 32 | 1 SENIOR TYPIST | SARJO BALDEH | 5 |
| 33 | 1 DRIVER | MUSA JOBE | 3 |
| 34 | 1 NIGHT WATCHMAN | VACANT | 3 |
| 35 | 1 CLEANER / MESSENGER | SAMBA SOWE | 3 |
| | | | |
| | MANSAKONKO | | |
| 36 | 1 SENIOR INVESTIGATOR | NURUDEEN MBYE | 10 |
| 37 | 1 INVESTIGATOR | AMADOU LEIGH | 8 |
| 38 | 1 SENIOR TYPIST | FATOU BARROW | 5 |
| 39 | 1 DRIVER | MUSTAPHA JUWARA | 3 |
| 40 | 1 NIGHT WATCHMAN | VACANT | 3 |
| 41 | 1 CLEANER / MESSENGER | ASSAN DAHABA | 3 |
| | | | |
| | KEREWAN | | |
| 42 | 1 SENIOR INVESTIGATOR | VACANT | 10 |
| 43 | 1 INVESTIGATOR | VACANT | 8 |
| 44 | 1 SENIOR TYPIST | HAWA BAJO | 5 |
| 45 | 1 DRIVER | VACANT | 3 |
| 46 | 1 NIGHT WATCHMAN | VACANT | 3 |
| 47 | 1 CLEANER / MESSENGER | OUSMAN BAH | 3 |

CHAPTER 4

4.1: CASES BROUGHT FORWARD

COMPLAINT No: 31/2008
NATURE OF COMPLAINT: Land Encroachment

COMPLAINT

The complainant alleged that he acquired twenty five (25) hectares of land at BatoKunku, Kombo South, in 1985 for agricultural purposes (i.e. Animal Husbandry). He submitted his project proposal to Ministry B. He started the lease process and was issued clearance by Department J in 1986. He paid the survey fees and land rent on the property from 1986 to 2011. He alleged that the former minister instructed the then Commissioner of Western Division to return the survey documents to Department S for correction of the sketch plan but the commissioner failed to comply with the minister's instruction.

He was issued with a letter by Ministry B informing him that his land is within the tourism development area. He claimed compensation but all his efforts proved futile. He decided to convert the land into an orchard and planted one hundred fruit trees and erected two houses. He alleged that Mr .J the son of the Ex Alkalo, had sold part of his land. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the district authority issued the complainant with a Resolution dated 3rd August 1986. The complainant applied for lease for agricultural purposes. Ministry B through a letter ref PA.32/D34/ (9) dated 24th November 1986 submitted ministerial clearance to the commissioner directing him to proceed for the preparation of a lease document for the complainant.

Mr. P through a letter ref 1-AD/ORD.4/ (225) dated 17th September 1986 conducted a comprehensive survey of the land and recommended that it is suitable and ideal for agricultural purposes.

On 23rd January 1989 the minister wrote to the commissioner of Western Division informing him that the complainant had approval for 25 hectares of land at BatoKunku for agricultural use and that there was a mistake in the survey exercise, instead of twenty five hectares, thirty hectares was surveyed. The minister instructed him to send back the documents for correction so that the leasing process could be continued but the commissioner failed to comply.

It was found out that the land in question falls within the tourism development area which is a reserved area leased to Government for tourism -related developments.

RECOMMENDATION

Since the land is within the tourism development area and the fact that Department T is not in a position to give back the land or compensate the complainant, the Ombudsman advised the complainant to apply to the relevant authorities if he is interested in operating tourism-related business.

COMPLAINT No: 8/2012
NATURE OF COMPLAINT: Claiming retirement benefits

COMPLAINT

The complainants stated that they were employees of the institution. They alleged that they were issued each a letter retiring them. A part payment was made towards their retirement benefits. They made several efforts for the payment of the remaining balance but all their efforts were fruitless. They urged the Ombudsman to intervene.

FINDINGS

An investigation was conducted and it was found out that the former Council of the institution was dissolved. An interim committee was put in place to oversee the affairs of the institution for a period of ninety days.

A head count exercise was conducted to restructure the institution and identify the overstaffing situation and ghost personnel. Certain members of staff were termed as surplus and were retired from the service.

Letters were issued to the complainants informing them that due to the reorganisation of the institution, it was decided to retire them with immediate effect and their gratuity and pensions would be paid if applicable.

A part payment was made towards the retirement benefits of the following staff: Mr N, D24,000; Mrs H, D48,000; Mr A, D95,000.00; Mr S, D24,000; Mrs I, D10,000; Mr E D5,000.00; Mr B, D10,000 and Mrs L D10,000.

It was further found out that most of the retired staff did not reach the statutory retirement age of 60. At the time of retirement, Mr F was 56 year; Mr J 45 years; Mrs D 43 years; Mr B 45 years; Mrs Z 42 years; Mrs L 42 years and Mr E 51 years.

It was also found out that one of the complainants, a revenue collector collected an amount of D8000.00 on the following receipts 0020051,0020052,0020053,0020054, dated 26th December 2006 but failed to lodge this amount to the treasurer for banking as a result of which his service was terminated.

One of the complainants Mr. F who initiated the complaint was retired with immediate effect on 1st February 2008 and two years later he was issued a letter dated 31st October 2011 informing him that due to a comprehensive reorganisation programme to ensure effective and qualitative service delivery mechanism which is both cost effective and highly sustainable, the institution had no option but to terminate his service with immediate effect.

It was observed that the conduct of the institution to retire the complainants did not match its actual intent. The actual intent was that the institution was facing redundancy and needed to get rid of the complainants. Moreover, the complainants did not even attain the statutory retirement age and therefore should not have been retired under the prevailing circumstances. Section 57 of the Labour Act Cap.56:01, Vol.8 laws of the Gambia states "An employee whose contract of employment is terminated by the employer for reason set out in section 93(1) is, notwithstanding the employer's compliance with the requirements of that section, entitled to six months notice."

RECOMMENDATION

In the light of the above findings and having studied the case closely, the Ombudsman is of the view that the termination letter issued to Mr. F was improper and against the principles of good administration. The Ombudsman hereby concluded that the complainants' services were terminated due to redundancy and recommended that they be paid six months salary as notice and all other benefits due to them.

For Mr E the revenue collector the office upheld the decision of the institution to terminate his service on the grounds of suppression of revenue. He should be surcharged to recover the amount of D8, 000.00 on receipt no.0020051 and 0020052 dated 26th December 2006, which he failed to lodge to the Treasurer for banking.

COMPLAINT No: 53/2012
NATURE OF COMPLAINT: Stoppage of salary

COMPLAINT

The complainant alleged that he was employed by Department O as assistant records clerk in May 2008. He added that he was later posted to school L. He further said that he had worked with the principal of the school for almost one year when she stopped his salary in 2010. He also said he had reported the matter to the Director Regional Education Office several times but to no avail. He further said that a few days later he went to Department R to report the matter but nothing was done about it. He urged the Ombudsman to intervene for him to be reinstated and his salary paid.

FINDINGS

The Principal of School L informed the Director Regional Education Office in a letter dated 17th November 2009 that the complainant reported for duty for the first term on 30th September 2009 and 9th October 2009 (2 days) only. She added that no information about his whereabouts had been communicated to her office.

On 1st February 2010 the principal again informed the Director that the complainant reported for duty on 13th January 2010 after being away for a whole term. She added that when the complainant reported on 13th January, he barely spent three hours at the school doing no work and disappeared for the day. She further said that when the complainant returned to the office the following day at 9.30 am, he was asked to report to the Director Regional Education Office and since then he had not been seen. She told the director that she would be grateful if the complainant could be replaced as soon as possible.

In a letter dated 9th February 2010, the Director Regional Education Office informed the Permanent Secretary about the matter and recommended that the complainant's salary be stopped with immediate effect.

During the investigation the attendance sheet of school L was checked and it was found out that the complainant went to work in the first term of 2009/2010 academic year only three times, 30th September 2009, 2nd October 2009 and 9th October 2009. There was no evidence that he had informed the authorities about his absence from duty.

CONCLUSION

Since the complainant was absent from work for months without permission, the complaint is dismissed as frivolous and not made in good faith under section 9 (3) (a) of the Ombudsman Act.

4.2 UNLAWFUL TERMINATION

COMPLAINT No:

3/2013

NATURE OF COMPLAINT:

Wrongful Dismissal

COMPLAINT

The complainant was appointed in December 1992 as a security guard and later promoted to the rank of a senior security officer and served in that position up to 24th February 2012. He alleged that when the problem (i.e. executive directive to dismiss 15 security officers) which led to his dismissal happened at Department G he was on leave for 69 days. He added that he was not involved in any case because he was then at home. The complainant also said that he was neither arrested nor charged and no cautionary statement was obtained from him. He added that his colleagues who were arrested, charged and cautioned were reinstated to their various positions but not him. He further said that to his surprise when he resumed on 23rd March 2012 he was served with a dismissal letter which indicated that the dismissal was an executive directive. The complainant therefore urged the Ombudsman to intervene for him to be reinstated because he felt that he was innocent.

FINDINGS

The decision to dismiss the complainant was an executive directive. This was stated in a letter dated 24th February 2012, which was sent to Department P. It was stated in the letter that executive directive had been issued for the dismissal of 15 security staff with immediate effect.

CONCLUSION

The investigation was discontinued under Section 9 (2) (e) of the Ombudsman Act.

COMPLAINT No:

4/2013

NATURE OF COMPLAINT:

Wrongful Dismissal

COMPLAINT

The complainants were employees of Department G and later elevated to the rank of Assistant Security Manager Operation 1 and served in that position up to 24th February 2012. They alleged that when the problem (i.e. executive directive to dismiss 15 security officers) which led to their dismissal happened at Department G they were neither arrested nor charged and no cautionary statement was obtained from them. The complainants added that their colleagues who were arrested, charged and cautioned were reinstated to their various positions. They further said that to their surprise on 24th February 2012 they were served with a dismissal letter which indicated that the dismissal was an executive directive. The complainants therefore urged the Ombudsman to intervene for them to be reinstated because they felt that they were innocent.

FINDINGS

The decision to dismiss the complainants was an executive directive. This was stated in a letter dated 24th February 2012, which was sent to Department P. It was stated in the letter that executive directive had been issued for the dismissal of 15 security staff with immediate effect.

CONCLUSION

The investigation was discontinued under Section 9 (2) (e) of the Ombudsman Act.

COMPLAINT No:

14/2013

NATURE OF COMPLAINT:

Wrongful Discharge

COMPLAINT

The complainant was enlisted in Department P on 1st January 2006. He served for five years and at the end of his service in January 2011, he applied to renew his contract of appointment for another five years but his request was not approved. He urged the Ombudsman to intervene so that he would be reinstated.

FINDINGS

Investigations revealed that the complainant served a term of five years. His conduct whilst in the service was not satisfactory. Records revealed that during this period he accumulated thirteen charges ranging from disobedience to orders, absence without leave, violence at work, theft and discreditable conduct.

The complainant further stole a mobile phone in Sukuta and the matter was referred to the Complaint and Discipline Unit and he was ordered to pay for the phone.

CONCLUSION

The complainant was discharged from the service due to professional misconduct under section 13(1) (a) of the institution's Act. The Ombudsman upheld the decision of Department G to discharge the complainant. The security force is a disciplinary force and security officers are expected to be law-abiding and disciplined in the execution of their duties. The complainant had betrayed the trust and confidence bestowed on him as a security officer. The complaint is dismissed under section 9(3) (a) of the Ombudsman Act 1997 for lack of merit.

COMPLAINT No:

19/20013

NATURE OF COMPLAINT:

Unlawful Dismissal

COMPLAINT

The complainant had been working with Ministry J as a driver since January 2013. He alleged that he had been executing his duties as expected until 24th June 2013 when he received a letter dismissing him from the civil service. He urged the Ombudsman to intervene for him to be reinstated.

FINDINGS

The complainant was appointed as a driver at Ministry J on 1st January 2013. He was dismissed on 24th June 2013. The Permanent Secretary stated that the complainant was on probation and since his appointment with the ministry, his attitude towards work demonstrated indiscipline, arrogance and lack of respect for authority.

The Permanent Secretary added that the former Minister had given the directive for the complainant to be dismissed. She added that a driver had already been appointed to replace him and the current minister does not want to work with him due to the afore-mentioned behaviour.

The complainant's personal file was requested but the Permanent Secretary directed the investigator to the Ministry's records. The staff at the records office checked but the file could not be traced. All that was found at the records was his appointment and dismissal letters.

The complainant was on grade one with less than one year of service and Ministry J could terminate his service if they were not satisfied with him. However, proper procedures were not followed. There was no documentary evidence to back up what the ministry had said. The complainant could have been given a written warning when the ministry realised his indiscipline and failure to follow the instructions.

According to Public Service Regulations, initial appointments are subject to probation set out in the letter of appointment and this is normally one year. During that time reports are made on the officer's performance and conduct. If these reports are unsatisfactory, the officer would be informed of his shortcomings and the period of probation could be extended or, at worst, the appointment could be terminated.

The ministry failed to indicate in the complainant's letter of appointment that he was on probation, as stated in the Public Service Regulations, and no reports were made on his performance and conduct. The fact that he was on probation does not mean that proper procedures should not be followed in dealing with him. The minister's directive is not an excuse. The matter should have been properly discussed with the minister.

CONCLUSION

Failure to follow procedures or the law is maladministration. One of the Ombudsman principles, which is also a principle of good administration, is **Getting it Right**, which means acting according to the law and guidelines, taking proper account of established good practice and with due regard for the rights of those concerned. The complainant was reinstated on 1st March 2014 and posted to another department..

COMPLAINT No:

25/2013

NATURE OF COMPLAINT:

Wrongful Termination

COMPLAINT

The complainant was appointed by Department N as a Generator Operator with effect from 1st November 2010. He was later redeployed as a driver in 2012. He alleged that on 22nd January 2013 whilst on duty his boss asked him to drive him home. He told him that he was having a headache but he insisted that he should drive him. He drove him home and upon his return, he accidentally hit a vehicle belonging to a hotel at Sukuta Junction. The police visited the scene of the accident and the necessary measurements were taken. He was interrogated by the police and later released. He alleged that Department N claimed to have spent D216, 660.00 to repair the vehicle belonging to the hotel. He was called before the disciplinary committee and was asked to explain how the accident occurred. Upon hearing his own story the disciplinary committee terminated his service with effect from 12th March 2012. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the complainant was appointed as a Generator Operator with effect from 1st November 2010. He was redeployed and re-designated to the garage as a driver with effect from 1st June 2012.

On 22nd January 2013 the complainant had an accident at Sukuta Traffic Light Junction. The police report indicated that the cause of the accident was over speeding.

It was also found out that the vehicle belonging to the hotel was seriously damaged and Department N spent D216, 660.00 (two hundred and sixteen thousand six hundred and sixty dalasi) to repair the vehicle belonging to the Hotel.

The complainant was summoned before the disciplinary committee to explain how the accident occurred. He admitted being responsible for the accident, as a result of which his services were terminated with effect from 12th March 2013. He was paid a month's salary in lieu of notice and 29 days earned leave.

CONCLUSION

After carefully considering the above findings, Department N's decision to terminate the complainant's services was upheld. The complaint is dismissed as frivolous and not made in good faith under section 9 (3) (a) of the Ombudsman Act 1997.

COMPLAINT No: 27/2013
NATURE OF COMPLAINT: Unlawful Termination

COMPLAINT

The complainant was appointed as Acting Deputy Permanent Secretary at the Ministry Z in 2003. He stated that his services were terminated with effect from 24th August 2010 without any reason. He felt that he was unfairly treated and urged the Ombudsman to intervene.

CONCLUSION

Whilst the investigation was on, the complainant wrote a letter dated 21st November 2013 to the Ombudsman requesting to withdraw the case. His request was granted. The investigation was discontinued.

COMPLAINT No: 38/2013
NATURE OF COMPLAINT: Unlawful Dismissal

COMPLAINT

The complainant was appointed by Department A on 1st June 2000. He alleged on 22nd June 2010 while interviewing a new intake, he received a telephone call from Department O that they had a letter for him and to his surprise it was a dismissal letter. He urged the Ombudsman to intervene.

FINDINGS

An investigation was conducted and it was found out that the complainant's dismissal was an executive directive.

CONCLUSION

The complaint was discontinued under section 9 (2) (e) of the Ombudsman Act 1997.

COMPLAINT No:

39/2013

NATURE OF COMPLAINT:

Wrongful Dismissal

COMPLAINT

The complainant stated that he was enlisted in Department F in 1990. He alleged that in May 2008 whilst on duties he received information that there was a man peddling drugs at Kerr Seringe. He went to the scene but did not meet the suspect. He alleged that he was accused of robbery and detained for six months. He was charged with robbery contrary to Section 272 of the Criminal Code Cap 10 Vol III Laws of the Gambia and arraigned before the Magistrates' Court on 23rd August 2008. He alleged that he was acquitted and discharged after being remanded for four years. Following his acquittal he was not reinstated. He urged the Ombudsman to intervene.

FINDINGS

An investigation was conducted and it was found that the complainant was involved in a robbery case at Kerr Seringe Senegambia whilst on duties. He was arrested, charged with robbery contrary to section 272 of the Criminal Code Cap 10 Vol. III Laws of the Gambia.

The complainant was remanded for four (4) years. He was released by the court after spending four years at the remand wing.

CONCLUSION

The Ombudsman upheld the decision of Department A. A security officer is expected to be law-abiding and to protect life and property rather than engaging in banditry. The complaint is therefore dismissed under Section 9(3) (a) of the Ombudsman Act 1997 as frivolous and not made in good faith.

COMPLAINT No:

40/2013

NATURE OF COMPLAINT:

Wrongful Dismissal

COMPLAINT

The complainant was enlisted in the security force in 2010. He stated that in March 2012, during the visit of His Excellency President of Senegal to the Gambia, he was on parade to welcome him at the Banjul International Airport. He alleged that prior to his arrival, His Excellency the President inspected the parade and realised that his uniform was worn out. He asked him to be at the back. After the ceremonial parade, Commander Lieutenant Colonel called him and asked which officers were pointed out by His Excellency. He told him that the President did not point out anyone but asked those in the front line with worn out

uniforms to go to the back. He was dismissed on 27th March 2012. He urged the Ombudsman to intervene.

FINDINGS

The Major General verbally informed the Office that the complainant was dismissed as a result of a directive “ to dismiss all the officers wearing worn out uniforms on parade during the visit of a head of state”.

CONCLUSION

The Ombudsman discontinued its investigation under section 9(2) (e) of the Ombudsman Act 1997.

COMPLAINT No:

41/2013

NATURE OF COMPLAINT:

Unlawful Dismissal

COMPLAINT

The complainant was enlisted in Department F in October 2006. The complainant alleged that he was dismissed in October 2010. He alleged that he was accused of peddling drugs. He was charged with being in possession of prohibited drugs contrary to Section 35(1) (a) of the Drug Control Act 2003 and arraigned before the Magistrates’ Court on 23rd November 2010. He pleaded not guilty to the charge. The prosecution failed to prove their case beyond reasonable doubt and as a result he was acquitted and discharged on 16th July 2012. He urged the Ombudsman to intervene so that he would be reinstated.

FINDINGS

The Office found out that the complainant was arrested on 5th October 2010 for being in possession of 2 bundles of 1kg 640 grams of cannabis.

He was charged and dismissed from the security force and handed over to the relevant authorities for prosecution.

He was acquitted and discharged on 16th July 2012 because the prosecution had failed to proof their case beyond reasonable doubt.

The court ordered that the complainant’s vehicle be returned to him and the said cannabis be forfeited to the state.

It was found that he applied to the Office of the President for reinstatement but his application was disapproved.

CONCLUSION

The security force is a disciplinary force. Even though the complainant was acquitted and discharged by the court, he was found wanting for conduct prejudicial to good order and discipline. The Ombudsman upheld the decision to dismiss the complainant. Investigation was discontinued under section 9(3)(a) of the Ombudsman Act.

COMPLAINT No:

42/2013

NATURE OF COMPLAINT:

Wrongful Dismissal

COMPLAINT

The complainant was enlisted in the security force on 15th April 2004. He alleged that during the final riot drill practical, he sustained injury on his right eye. He was admitted in hospital for one month. Following his discharge, he reported for duties. His condition deteriorated and he decided to use traditional medicine. He spent three (3) months in the provinces undergoing treatment but his salary was stopped. Upon his return he was charged and dismissed from the service. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the complainant was enlisted in the security force on 15th April 2004. The complainant was issued several warnings but he failed to improve.

The security force has their own clinic and the complainant's commander advised him to report for a medical check-up but he failed to comply.

It was found out that the complainant was dismissed from the security force for being absent from work for three (3) months without permission or a medical certificate exempting him from duties.

CONCLUSION

The security force is a disciplinary force and the complainant's demeanour did not conform to the rules and regulations governing the security force. The complaint is dismissed under section 9(3) (a) of the Ombudsman Act 1997 as frivolous and not made in good faith.

COMPLAINT No:

45/2013

NATURE OF COMPLAINT:

Unlawful Termination

COMPLAINT

The complainant was appointed as History/Government Teacher in September 2004. In 2008, he was put on a "Local Contract" which was renewable every 2 years. He was issued a letter dated 14th August 2013 informing him that his service with the school had been terminated. He alleged that the reasons forwarded were unfounded and that the case of the alleged assault of a student happened about 3 years ago. He said the case was resolved amicably between him, the vice principal and an independent investigator appointed by the student's father. He urged the Ombudsman to intervene so that he would be paid his terminal benefits and one month salary in lieu of notice.

FINDINGS

It was found out that the complainant was appointed as History/Government Teacher on 28th September 2004. The contract was renewable every 2 years.

It was found out that on 13th June 2003, the complainant was issued with a warning letter for fighting with a colleague. He was warned that the institution he was in is a family and every staff member should exercise patience and understanding and that. If he should continue

with such negative attitude, the school would be left with no option but to recommend to the Board of Directors for his dismissal.

The complainant's service was terminated on 14th August 2013 due to the following reasons: his attitude towards work deteriorated drastically during the academic year, his refusal to attend to the grade 10 students, assaulting two students, insubordination to the vice principal, failure to enter the report card on time and his poor performance in the staff assessment in which out of 100% he was able to secure 36%, which is a total failure by any standard.

The investigation further unveiled that the complainant was written to by the legal representative of the vice principal in a letter dated 29th November 2013 warning the complainant to desist from making unfounded allegation against his client and should he persist legal action would be instituted against him.

The complainant was paid August, September and October 2013 salaries. His claim for end of contract payment was also settled on a Trust Bank Cheque No: 1106167401 amounting to D6, 860.00 (six thousand eight hundred and sixty dalasi) for February 2014.

CONCLUSION

Based on the above findings, there is no convincing evidence that the complainant service was wrongfully terminated by the vice principal. The allegations were unfounded and the vice principal acted in line with the powers conferred on him as the administrative head of the school. The Ombudsman therefore considers the termination of his service as genuine and in conformity with the school service rules.

COMPLAINT No: 47/2013
NATURE OF COMPLAINT: Wrongful Dismissal

COMPLAINT

The complainant was appointed on 14th February 2011 and was posted to the office of the Director General as an orderly. The Director General had been sending the complainant to save and withdraw money on his behalf from the Arab Gambia Islamic Bank and Trust Bank Ltd. The complainant stated that the Director sent her to withdraw D 90.000.00 (ninety thousand dalasi) and she was given D1500.00 (one thousand five hundred dalasi) by the Director out of gratitude. She alleged that the following day the Director General sent his driver to save D70.000.00 (seventy thousand dalasi) into his nephew's account at the Trust Bank Ltd but the bank, realized that the money was short. The Director General accused her of being responsible for the shortage and as a result she was transferred to Giboro Post on 22nd October 2012.

On 11th September 2013, she was asked to report to the Head Office. She was again accused of withdrawing money from the Director General's nephew's account on four different occasions amounting to D55,000,00(fifty-five thousand dalasi). She was charged with stealing, forgery and misconduct and was dismissed from the service. She urged the Ombudsman to intervene.

CONCLUSION

The investigation was in progress when the Ombudsman learnt that the matter was already in court. The case is discontinued under section 9(2) (c) of the Ombudsman Act 1997.

COMPLAINT No:

49/2013

NATURE OF COMPLAINT:

Unlawful Termination

COMPLAINT

The complainant was appointed as Typist I. She served a probationary period of 3 years and she was confirmed in her appointment and upgraded to Typist II on 27th July 2012. In January 2013 Department I became semi-autonomous. The complainant was again issued with a new appointment as a Receptionist with effect from 1st September 2013 without asking her consent or transferring her service to her new appointment.

She was issued a letter dated 28th November 2013 by institution I alleging that her progress in the position of Receptionist was not satisfactory despite all the necessary support given to her to improve. The institution had rated her performance as unsatisfactory and was not convinced that she would be able to meet the standard required to do the job. Her service was terminated with effect from 29th November 2013. She urged the Ombudsman to intervene.

FINDINGS

The complainant was appointed as Typist I. She was confirmed in her appointment and upgraded to Typist II.

Department I became a semi- autonomous institution in January 2013 and the complainant was reappointed as a receptionist. Whilst serving her probation, she was queried for poor performance. As a result, her service was terminated with effect from 29th November 2013 and was paid one month salary in lieu of notice.

It was observed that the manner in which the complainant was reappointed by institution I was inappropriate. The complainant was not informed anything concerning her previous employment with the Commission as to whether her service was terminated or transferred to her new employers.

RECOMMENDATION

Based on this administrative lapse, it was recommended that the complainant should report to Department O for her status to be regularised since she had successfully served her probation and was confirmed in the civil service.

CONCLUSION

The complainant was reinstated by Department O and was posted to Department W as secretary.

4.3:UNFAIR TREATMENT

COMPLAINT No: 2/2013
NATURE OF COMPLAINT: Unfair Treatment.

COMPLAINT

The complainant was residing in Kombo East. He alleged that the Alkalo was arrogant towards him and always threatened to banish him from the village if he misbehaves. He asserted that he was law-abiding, respectful and will always obey the Alkalo as the head of the village. He alleged that the Alkalo was habit of closing the village tap, which is used by most villagers because its water tastes better, compared to the other taps. The Alkalo stated that he closed the tap because the children were misusing the water. When he confronted the Alkalo for the second time, the Alkalo told him that the tap was closed because it had not been officially launched by the water resources officials. He complained that for eight (8) days the villagers could not access the tap. He urged the Ombudsman to intervene.

FINDINGS

The Alkalo informed the Ombudsman that the complainant was a nuisance and lacked discipline. He revealed that the complainant had been violating norms and tradition of the village. He had been criticising the Imam of the village for the manner he recited the Quran. He had cautioned the complainant several times to obey the customs and traditions of the village and stop inciting trouble in the village.

It was found out that the complainant was threatened and he fled the village.

It was found that the village tap was reopened well before he lodged his complaint to the office.

CONCLUSION

After a fruitful discussion with the Alkalo, the complainant was allowed to return to the village and continue his normal life. The Ombudsman advised the complainant to respect the norms and traditional values of the village and also to give respect to the Alkalo and the Imam.

COMPLAINT No: 5/2013
NATURE OF COMPLAINT: Claiming gratuity and pension benefits

COMPLAINT

The complainant was appointed as a caretaker. He applied to proceed on statutory retirement and his request was granted on a letter dated 10th May 2012. He alleged that he was issued a letter dated 3rd May 2012 stating that his benefits shall be duly computed and paid to him by the Principal Accountant but his gratuity was not paid despite several follow-ups. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the complainant was appointed on 24th October 1994 at the age of 56 as caretaker.

In 2012 Department O conducted a head count exercise. It was realised that the complainant was above the statutory retirement age of 55 at the time of his appointment on 24th October 1994. His retirement was backdated and the period he served in the civil service was treated as temporary appointment on a month -to -month basis.

CONCLUSION

The complainant was not eligible for pension benefits. The complaint was dismissed under section 9 (3) (a) of the Ombudsman Act 1997 for lack of merit.

COMPLAINT No:

7/2013

NATURE OF COMPLAINT:

Claiming death gratuity of late father

COMPLAINT

The complainant stated that his late father was a driver at Department R until his untimely death on 22nd February 2011. Following the demise of his father, he applied for the payment of the death gratuity. He was told by a member of staff of Department R that the death gratuity was paid to a relative on behalf of the family. He requested to know the person to whom the cheque was paid but all his efforts proved futile. He urged the Ombudsman to intervene.

FINDING

It was found out that the death gratuity of the complainant's late father was not paid. It was computed and it amounted to D168, 000.84 (one hundred and sixty-eight thousand dalasi eighty-four butut).

CONCLUSION

On 27th February 2013, the death gratuity of the complainant's late father amounting to D168, 000.84 (one hundred and sixty-eight thousand dalasi and eighty-four butut) was paid to the Curator of Intestate Estate, The case was closed accordingly.

COMPLAINT No:

8/2013

NATURE OF COMPLAINT:

Stoppage of salary

COMPLAINT

The complainant was employed by a hotel. She alleged that a bundle of suspected cannabis sativa was found in the vehicle of the General Manager. She was arrested and detained by Agency F for four days. She was interrogated to ascertain whether she knew anything concerning the drug found in the General Manager's vehicle. She maintained having no knowledge pertaining to the suspected cannabis sativa. She was later granted bail and asked to report on a daily basis. She was stopped from work by former, Director of Investigation and Intelligence of Agency F. Her salary was stopped. She urged the Ombudsman to intervene so that she will be reinstated and paid her salary arrears.

FINDINGS

The complainant was accused of planting suspected cannabis sativa in the General Manager's vehicle. She was arrested and detained for three days and later granted bail. Her salary was stopped with effect from 7th September 2011.

The complainant was investigated by officers of Agency F in an alleged drug case involving the General Manager.

Agency F through a letter Ref: ZQB 133/160/01/ (27) dated 15th May 2013 revealed that the complainant had no connection with the drug case and was therefore released accordingly.

It was observed that on 10th June 2009 the complainant was honoured for her outstanding performance and awarded D1000.00. She was rewarded for the second time D2000.00 because of Management's appreciation of her honesty and commitment

RECOMMENDATION

With reference to the above findings, the Ombudsman recommended that the complainant be reinstated with immediate effect and paid her salary arrears from the date her salary was stopped up to the date of her reinstatement.

CONCLUSION

The complainant was reinstated but she was not willing to work for the hotel again. She was paid D41, 266.84 through Trust Bank cheque number 01581041 dated 20th November 2013.

COMPLAINT No:

9/2013

NATURE OF COMPLAINT:

Stoppage of salary

COMPLAINT

The complainants were employed by a hotel. They alleged that a bundle of suspected cannabis sativa was found in the vehicle of the General Manager. They were arrested and detained for four days. They were interrogated to ascertain whether they knew anything concerning the drug found in the General Manager's vehicle. They maintained having no knowledge pertaining to the suspected cannabis sativa. They were later granted bail and asked to report on a daily basis. They were stopped from work. Their salaries were stopped. They urged the Ombudsman to intervene so that they will be reinstated and paid their salary arrears.

FINDINGS

The complainants were accused of planting suspected cannabis sativa in the General Manager's vehicle. They were arrested and detained for three days and later granted bail. Their salaries were stopped with effect from 7th September 2011.

The complainants were investigated by officers of Department E in an alleged drug case involving the General Manager.

Department E through a letter Ref: ZQB 133/160/01/ (27) dated 15th May 2013 revealed that the complainants had no connection with the drug case and were therefore released accordingly.

RECOMMENDATION

With reference to the above findings, the Ombudsman recommended that the complainants be reinstated with immediate effect and paid their salary arrears from the date their salaries were stopped up to the date of reinstatement.

CONCLUSION

The complainants were reinstated but they were not willing to work again for the hotel. They were each paid salary arrears as follows: Mr M was paid D30,442.08 through Trust Bank cheque number 01581040 dated 20th November 2013, and Mr N was paid the sum of D61,936.08 through Trust Bank cheque number 01581039 dated 20th November 2013.

COMPLAINT No: 11/2013
NATURE OF COMPLAINT: Claiming leave arrears

COMPLAINT

The complainants were appointed as drivers by Department G. Their contract expired on 31st December 2012 and it was not renewed. They claimed that they were owed leave arrears. They made several efforts for the payment of their leave entitlement but to no avail. They urged the Ombudsman to intervene for the payment of their leave arrears.

FINDINGS

It was found out that the complainants' contract of appointment came to an end on 31st December 2012 and it was not renewed.

The management of Department G admitted owing the complainants leave arrears and was willing to pay them their earned leave with immediate effect.

CONCLUSION

The complainants were each paid D2, 285.00 on voucher number 13325.

COMPLAINT No: 14/2013
NATURE OF COMPLAINT: Claiming notice

COMPLAINT

The complainant was appointed as Assistant Graduate English Teacher on 1st October 2011. He alleged that he was performing his duties and responsibilities as a teacher. He said that on 29th August 2012, he received a letter terminating his service with effect from 1st September 2012. He urged the Ombudsman to intervene so that he will be paid one month salary in lieu of notice.

FINDINGS

Investigation revealed that the complainant was having two appointments, the former with school A and the latter with school B.

It was found that the complainant had been receiving salary from both schools. When the principal of school B realised the anomaly, he advised the complainant to stick to one appointment, but the complainant refused to comply. The principal then recommended to the Board of Governors for the complainant's appointment to be terminated.

The complainant admitted being appointed by both schools.

CONCLUSION

The Ombudsman upheld the decision of the principal of school B that the complaint cannot have two appointments at the same time within the government. The complaint is dismissed under section 9(3)(a) of the Ombudsman Act for lack of merit.

COMPLAINT No: 15/2013
NATURE OF COMPLAINT: Unfair treatment

COMPLAINT

The complainant was appointed as a state nurse and later promoted to the position of Public Health Officer. He alleged that he had been acting as Programme Manager for five years. He applied to the Permanent Secretary to fill this position. The PSC approved his promotion to the position of Programme Manager, with effect from 1st January 2012. He stated that he was expecting an increase in his salary but there was no increment in his salary. He urged the Ombudsman to intervene.

CONCLUSION

The investigation was in progress when the complainant informed the Office that his superior learnt that he had made a complaint before the Ombudsman and as a result the increment in his salary was effected. The case was closed accordingly.

COMPLAINT No: 17/2013
NATURE OF COMPLAINT: Unfair treatment

COMPLAINT

The complainant was employed in October 1988 by Department T as cashier. Her service was later transferred to Department F with effect from 1st July 2001. She was posted to the Account Department as cashier until 8th December 2011, when she was accused of suppressing revenue. She was interrogated but she denied the allegation. She revealed that the liability she owed the authority was her personal loan of D24,000.00 (twenty-four thousand dalasi), which she had already settled following her return from Ghana. She alleged that her service was terminated on 29th December 2011. She claimed her social security benefits but her employer failed to endorse her benefit's claim form. She urged the Ombudsman to intervene.

FINDINGS

Investigations revealed that the complainant's SS2 Form was endorsed and sent to the social security for more than a year.

It was also found out that the complainant was found guilty of suppressing the revenue of the Authority and as a result her service was terminated.

CONCLUSION

Since the complainant's SS2 Form had been endorsed. She was advised to pursue her benefits with social security.

COMPLAINT No:

17/2013

NATURE OF COMPLAINT:

Complained that his pension and gratuity were changed without giving any convincing reason

COMPLAINT

The complainant alleged that on 28th November 2012 Department O granted approval for his retirement from the civil service with effect from 26th January 2013, which was his sixtieth birthday. He added that after much delay his retirement date, pension and gratuity were changed without giving any convincing reasons. He urged the Ombudsman to intervene for him to be paid his pension and gratuity based on the last salary he received at Department L in January 2013, and not based on the government pay scale.

FINDINGS

The complainant was appointed in the civil service with effect from 1st April 1974 as library assistant and rose through the ranks. He was appointed Director General of Department L with effect from 1st April 2010. He was informed in the appointment letter that a contribution of his total emoluments would be paid by the Authority to his social security pension fund while he pays 5 per cent.

In response to the complaint, Department O said the transfer of the complainant's service came following the transformation of the Department L to an authority. Department O further said that in processing the complainant's retirement, they inadvertently used his appointment date with Department L as his retirement date, which was later detected and corrected. They expressed regret for any inconvenience he might have had as a result of the changes in his retirement date.

Department O further stated that although the complainant's 60th birthday fell on 26th January 2013, it does not mean that the calculation of his pension should be from 1st April 1974 to 26th January 2013. They added that he was appointed by the Board of Department L effective 1st April 2010 and the payment of his pension and gratuity was eventually taken by SSHFC on the same date. Department O further said that the government can only pay the complainant's pension and gratuity from 1st April 1974 to 31st March 2010, using his last grade point in the civil service. Department O finally stated that using his salary at the Authority where he was earning a salary not paid by the government would give him an undue advantage. They further stated that even if people were paid using their last grade in parastatals, it is wrong and that a wrong procedure should not be followed. The above

findings were relayed in a letter to the Ombudsman after numerous discussions with Department O. the complainant eventually agreed with Department O's decision to calculate his benefits based on his last grade point with government.

RECOMMENDATION

The Office of the Ombudsman recommended that since the Pensions Authority thinks that payment of the retirement benefits of transferred officers based on their last salary in parastatals is not **sustainable** and wants the computation to be based on civil service salary, they should contact Ministry J and Department N for that portion of the Pensions Act to be amended. The earlier this is done the better.

CONCLUSION

The complainant made an appeal to the Ombudsman not to uphold the decision of the chairman of the pension's authority, which he said was unfair ruling pertaining to his pension and gratuity. However the Ombudsman maintains its previous decision for simple fact that since the complainant has already benefited from the federated pension scheme with the parastatal, it would be fair enough for his pension with the central government, to be calculated based on his last pay with the central government. This has been clearly buttressed in the General Orders of September 2013.

COMPLAINT No:

20/2013

NATURE OF THE COMPLAINT:

Claiming retirement benefits

COMPLAINT

The complainant was appointed by Department K as a watchman on 2nd August 1994. On 14th December 2012, he was served with a letter dated 14th August 2012 informing him that he was to proceed on retirement. He alleged that he had made several follow-up for payment of his retirement benefit but to no avail. He urged the Ombudsman to intervene.

FINDINGS

The investigation revealed that the complainant was appointed by Department K as a watchman on 2nd August 1994. On 14th December 2012, he was issued with a letter giving approval for him to proceed on statutory retirement.

It was found out that the complainant's personal file was sent to the ministry for endorsement of his retirement benefits.

CONCLUSION

The complainant was paid the sum of D17, 486.62 on Guarantee Trust Bank Cheque No.4274 dated 5th March 2014.

COMPLAINT No: 25/2013
NATURE OF COMPLAINT: Unfair treatment

COMPLAINT

The complainants are employees of Department G. They alleged that they were issued with letters stating that they should proceed on leave with salary until further notice. They wrote to the Acting Director enquiring to know why they were sent on indefinite leave but to no avail. They urged the Ombudsman to intervene.

FINDINGS

It was found out that Department G was experiencing financial constraints. An audit exercise was being conducted and as a result all cashiers who were suspected of suppressing revenue were sent on indefinite leave pending the outcome of the audit report.

CONCLUSION

Upon conclusion of the audit exercise the complainant's were asked to resume duty. They work for a week and tender their resignation letter. The investigation was discontinued under section 9 (3) (b) of the Ombudsman Act.

The investigation was discontinued under section 9 (3) (b) of the Ombudsman Act.

COMPLAINT No: 31/2013
NATURE OF COMPLAINT: Claiming terminal benefits

COMPLAINT

The complainant was appointed on contract as an Assistant Graduate Agricultural Science teacher for a period of two years at school J from 1st September 2012 to 1st August 2014. He stated that he had been performing his duties and responsibilities as a teacher with efficiency and effectiveness. He alleged that he was issued a letter terminating his service with effect from 31st August 2013, on the grounds of his unruly and uncooperative behaviour towards the principal. He urged the Ombudsman to intervene for the payment of his terminal benefits.

FINDINGS

Investigation revealed that the complainant was appointed as an Agricultural Science teacher for a period of one academic year 2009 to 2010 at school J.

It was found out that the complainant was hard- working but was not cooperating with the Principal. He was warned to change his attitude, which he promised to improve but his behaviour remained the same and as a result his service was terminated.

RECOMMENDATION

The decision of the school to terminate the complainant's contract was upheld since he failed to cooperate with the principal. It was recommended that the complainant be paid his terminal benefits.

CONCLUSION

The complainant was paid D51, 678.00 through cheque number 01531708 dated 23rd July 2013.

COMPLAINT No: 36/2013
NATURE OF COMPLAINT: Non-payment of retirement benefits

COMPLAINT

The complainant was appointed in 1994 by the Council and posted to the Cleansing Service Unit. He stated that whilst on duties, he was served with a letter dated 12th December 2012 being approval for him to proceed on retirement. He alleged that since then he had made several follow-up for his retirement benefits but to no avail. He urged the Ombudsman to intervene.

FINDINGS

Investigation revealed that on 12th December 2012 the complainant was issued with a letter being approval for him to proceed on retirement.

The council was very concerned about the plight of the complainant and stated that payment procedures were at an advanced stage and that he would be paid soon.

CONCLUSION

The complainant was paid on a Guarantee Trust Bank Cheque No:4397 with an amount of D18, 307.00 (eighteen thousand three hundred and seven dalasi). The case was settled.

COMPLAINT No: 36/2013
NATURE OF COMPLAINT: Land Encroachment
COMPLAINT

The complainant stated that he inherited a piece of land situated at Brikama. He alleged that on 12th June 2013 two men from department J dug a meandering trench in his compound and in the process cut the roots of his mango trees. He reported the matter to the police but the two men continued their work insisting that he should produce his compound documents to indicate the dimension of the compound. He urged the Ombudsman to intervene.

FINDINGS

It was found that the piece of land was not bearing the name of the complainant as indicated in the rates receipt from the area council.

The complainant failed to produce a Certificate of Occupancy or sketch plan indicating the dimension of the land in question.

CONCLUSION

Since the complainant was unable to produce a Certificate of Occupancy or sketch plan to indicate the dimension of the property in question, the case is discontinued under section 9 (3) (b) of the Ombudsman Act.

COMPLAINT No:

44/2013

NATURE OF COMPLAINT:

Unfair treatment

COMPLAINT

The complainants are employees of Department L. They alleged that they were issued with letters stating that they should proceed on leave with immediate effect on salary until further notice. They wrote to the Acting Director enquiring to know why they should proceed on indefinite leave but to no avail. They urged the Ombudsman to intervene.

FINDINGS

The complainants were appointed as cashier with effect from 23rd December 1997 by Department L.

It was found out that Department L was experiencing some financial constraints. They were not paying salaries on time and this prompted an audit exercise to be conducted. All cashiers suspected of suppressing revenue were asked to proceed on indefinite leave pending the outcome of the audit exercise.

CONCLUSION

Upon conclusion of the audit exercise the complainant's were asked to resume duty. They work for a week and tender their resignation letter. The investigation was discontinued under section 9 (3) (b) of the Ombudsman Act.

COMPLAINT No:

44/2013

NATURE OF COMPLAINT:

Premature retirement

COMPLAINT

The complainant was enlisted into the security force on 1st July 1977 and rose to the rank of Deputy Commissioner. He stated that on 9th October 2013, he received a letter from Department Z informing him that he was due for statutory retirement. He alleged that he was born in 1959 and had tried to convince them that he was not due for retirement but to no avail. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the complainant was enlisted into the security force on 1st July 1977. The records in his personal file indicated that he was born in 1953 whilst his identity card revealed that he was born in 1959.

CONCLUSION

With reference to the two conflicting dates of birth 1953 and 1959, the Ombudsman decided to go by the records in his personal file. The decision of the Director General was upheld and the case was discontinued under section 9 (3) (a) of the Ombudsman Act.

COMPLAINT No:

50/2013

NATURE OF THE COMPLAINT:

Claiming retirement benefit

COMPLAINT

The complainant was appointed on 1st September 2000 as a cleaner by Department D. He stated that a head count exercise was conducted by the Personnel Management Office. He was informed that he was due for statutory retirement. He was instructed to put it in writing informing his Director that he was due for retirement. The complainant alleged that since his personal file could not be traced he had the belief that he was being prematurely retired because he was born on 10th May 1959. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the complainant was an employee of the Department D. Following a head count by Department O he was informed that he was due for statutory retirement.

It was found out that the complainant was in possession of two identity cards. One of them indicated that he was born on 10th May 1959 and the other one stated that he was born on 20th October 1952. According to the records in his personal file, he was born on 20th October 1952.

It was also observed that the complainant overstayed in the civil service for a period of one year. However, the period was treated as appointment on a month to month basis.

CONCLUSION

The complainant was not prematurely retired as alleged. He was paid gratuity of D18, 236.37 on Central Bank Cheque No.000030402 on 13th June 2014. In addition he was paid annual allowance at the rate of D4, 376.76.

4.4: INJUSTICE

COMPLAINT No: 3/2013
NATURE OF COMPLAINT: Complaint of torture by a military officer

COMPLAINT

The complainant stated that he was employed by Mr. P as a Gardener at his residence in Fajara. He worked for him for almost 8 years. On 16th February 2013, Mr. P alleged that a theft occurred at his residence whilst he was off duties. The complainant added that he was interrogated whether he knew anything concerning the theft but he responded in the negative. Mr. P decided to withhold his salary for February 2013. The complainant went to Mr P's residence to collect his belongings on 19th February 2013 and met there a man who identified himself as a marabout. The marabout asked him to sit on the ground because he was going to perform a ritual to know who the actual thief was. He refused to sit down. Mr. P then called a military officer who identified himself as a soldier. He ordered him to sit on the ground as requested by the marabout but he refused to comply. The military officer told him if he failed to comply with the marabout's directive he would regret it. The complainant's elder brother asked him to comply and he did. The marabout tied a bundle of broom on his neck whilst the military officer was beating and slapping him mercilessly. He almost suffocated to death when his elder brother intervened and rescued him. In the light of the above, he urged the Ombudsman to intervene.

FINDINGS

The station officer confirmed that the complainant was assaulted by three people and two of them were civilians' whilst the other was a military officer. The two civilians were charged with common assault, conspiracy and pretending to exercise fortune telling contrary to Section 294 of the revised laws Volume 10 Laws of the Gambia 2009.

The military officer was arrested on 24th May 2013 by the military police and was cautioned, charged and reprimanded accordingly.

Mr. P paid the complainant D2000.00 (two thousand dalasi) at the police station being his February 2013 salary.

CONCLUSION

The military officer offered an apology to the complainant which was accepted. The case was closed accordingly.

COMPLAINT No: 39/2013
NATURE OF COMPLAINT: Unlawful suspension

COMPLAINT

The complainant was employed by Department H on 1st April 2010 as an orderly. He stated that he was served with a suspension letter dated 9th October 2013. He alleged that he was accused of not complying with uniform codes, absenteeism and lax attitude, which he vehemently denied. He urged the Ombudsman to intervene.

FINDINGS

An investigation was conducted and it was found out that the complainant was employed by Department H on 1st April 2010 as an orderly. He was served with a letter of suspension without salary dated 9th October 2013.

It was found that the complainant was issued with a series of warning letters about the following: absence from work without permission, unpunctuality and not wearing proper uniform.

CONCLUSION

By virtue of the above findings, the complainant's behaviour during the years under review was not cooperative. The decision to suspend the complainant for one month without salary was upheld. The complaint is therefore dismissed under section 9(3) (a) of the Ombudsman Act 1997 as frivolous and not made in good faith.

KEREWAN

REGIONAL OFFICE

COMPLAINTS

CHAPTER 5

5.1: KEREWAN REGIONAL OFFICE REPORT

COMPLAINT No: 1/2013
NATURE OF COMPLAINT: Unfair treatment

COMPLAINT

The complainant was appointed in September 2011 as Cluster Monitor to monitor activities of teachers in schools. He alleged that he had been working with teachers successfully and had their support and cooperation, which resulted in increasing the performance of various schools to higher height. He further alleged that in September 2012 he was unjustly and unceremoniously removed from his position as a cluster monitor and replaced with Mr. M, who was currently pursuing a degree in management with the university. The complainant's bone of contention was why he should be removed when retired teachers were being contracted and retained as School-based Cluster Monitors. He believed that he was unfairly treated. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the complainant was appointed as a Cluster Monitor in September 2011 on one year probation. During the probation, he did not impress the Ministry with his performance and behaviour.

It was found out that the complainant contacted the permanent secretary and requested to be assigned the duties of a Cluster Monitor in Essau because the position was vacant following the demise of the Cluster Monitor, Mr. J.

It was further found out that during the third term of 2011 and 2012 academic year, an assessment was conducted in North Bank Region pertaining to the level of implementation by schools based on the minimum standards set by the Ministry. The complainant's performance was below standard.

It was revealed that during the Mansakonko Data Workshop in 2012, the complainant failed miserably to live up to expectation. He did not collect any data from the eight (8) educational institutions in his Cluster. He failed to enter a large amount of data he had collected when it was needed by the Directorate of Planning. He was queried and the excuse he gave was that he was unable to enter the data because his laptop had a breakdown, which he never brought to the attention of the Cluster Monitor Focal Point.

In addition, the complainant was on National Assessment Test Supervision duties in 2012, and was again queried by the West African Examination Council for using an outsider to distribute question papers which were meant to be handled strictly by the authorised staff only.

It was further found out that retired teachers were appointed on contract as Cluster Monitors. This had been a common practice at the ministry.

CONCLUSION

The decision to remove the complainant as Cluster Monitor was upheld and the complaint is dismissed as frivolous and not made in good faith under Section 9 (3)(a) of the Ombudsman Act 1997.

COMPLAINT No: 2/2013
NATURE OF COMPLAINT: Claiming late father's death gratuity

COMPLAINT

The complainant alleged that his father was an employee of Ministry Bas a caretaker. His father died on 5th May 2000 after serving 14 years in the civil service. He alleged that the family had pursued the payment of their late father's death gratuity but to no avail. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the delay was due to the late submission of the necessary documents to process the death gratuity.

The death gratuity of the deceased was computed and the file sent to Department T for payment to be effected.

CONCLUSION

The death gratuity amounting to D 6,444.00 was paid to the Curator of Intestate Estates through Central Bank cheque No: 102224 dated 20th February 2014.

COMPLAINT No: 3/2013
NATURE OF COMPLAINT: Claiming compensation

COMPLAINT

The complainant alleged that in 2008 Mr F stole his cow, slaughtered it and was selling the meat in the market when he was informed that some was selling meat at the market. He reported the matter to the police station. The suspect was interrogated by the police but he could not explain the circumstances surrounding the meat. He was arrested and upon visiting his home, the complainant found the remains of his cow. The accused was arraigned before the Magistrate Court. He pleaded guilty to the charge and was sentenced to a fine of D5000.00 (five thousand dalasi) and ordered to pay the complainant compensation of D5000.00 (five thousand dalasi) in default to serve one year in prison. The accused paid D10, 000.00. The complainant made several follow-ups for the payment of his compensation but to no avail. He urged the Ombudsman to intervene.

FINDINGS

An investigation was conducted and the Judicial Secretary informed the Ombudsman that the complainant was asked to submit his tin card and identity card to the accounts unit for the payment of the compensation but he failed to comply.

CONCLUSION

The Ombudsman asked the complainant to furnish the account's unit with his tin card and Identity card. He complied and was paid D5000.00 (five thousand) through Central Bank cheque number 0193777 dated 22nd August 2013.

COMPLAINT No: 4/2013
NATURE OF COMPLAINT: Injustice

COMPLAINT

The complainant stated that his brother sent him a milling machine from Germany. He gave the milling machine to one Mr F for sale. Mr F sold the milling machine and failed to give him the money despite repeated demands. He reported the matter to a police station and was advised to take legal action against Mr F. He paid a summon fee of D200.00. He stated that whenever he asked the court clerk about the status of his case, he always told him that the magistrate was not around and promised to inform, which he never did. He urged the Ombudsman to intervene.

FINDINGS

Investigation was conducted and it was found out that the summons was not prepared. It was realised that the court clerk was related to the defendant and he was mediating between the parties so that the matter could be settled out of court.

CONCLUSION

The Ombudsman ordered the court clerk to prepare the summons and the defendant was served.

COMPLAINT No: 5/2013
NATURE OF COMPLAINT: Inadequate water supply

COMPLAINT

The residents of village C complained that they were not enjoying adequate water supply whilst the other villages had enough water supply. They stated that during the Presidential Meet the People Tour, when Department N heard that His Excellency the President would visit their village, they provided them with adequate water supply. They lamented that when His Excellency departed, the water supply ceased and Department N continued to send them monthly bills. They tried all they could so that the water supply would improve but to no avail. They urged the Ombudsman to intervene so that they can get enough water supply like the other villages.

FINDINGS

An investigation was conducted and it was found that the main generator at Farafenni was put on four hours daily to pump water to the surrounding villages and by the time the water pressure reached the village, it was time to switch off the generator.

It was found out that Department N was working towards having another 500KV generator. This would enable them to improve their service in the area.

CONCLUSION

A new 500kv generator was installed to improve the water supply. Department N is also working towards installing solar panel to ensure that there is adequate water in the area. .

COMPLAINT No: 6/2013
NATURE OF COMPLAINT: Unfair treatment

COMPLAINT

The residents of village Y alleged that they were issued with common water bills monthly. They believed that it was unfair because some households have more people than others, and Department N should not charge the same water bill across the board. They urged the Ombudsman to intervene.

FINDINGS

An investigation was conducted and it was found out that the complainants' water meters were faulty and all those affected were charged based on their last water bills.

CONCLUSION

Department N replaced forty faulty water meters with new ones and they were each issued bills based on their consumption. The villagers expressed satisfaction.

COMPLAINT No: 7/2013
NATURE OF COMPLAINT: Malpractice

COMPLAINT

The complainant was given a loan of D30,000.00 (thirty thousand dalasi) Department G for a period of two years. Her business collapsed and she defaulted in paying the loan. Department G took legal action against her. She admitted the liability and promised to settle the debt within a month. She alleged that she gave the court interpreter D2600.00 as part payment towards the debt but the money was never paid to the court. She had made several attempts to recover the money but to no avail. She urged the Ombudsman to intervene.

FINDINGS

It was found out that the court interpreter received D2600.00 from the complainant as part payment towards her debt but the court interpreter converted the money to his personal use.

CONCLUSION

The Ombudsman ordered the court interpreter to refund the money to the complainant with immediate effect. The complainant was paid D2, 600.00 (Two thousand six hundred dalasi) on Thursday 27th April 2014. The magistrate's attention was drawn to the matter for necessary action.

COMPLAINT No:

5/2013

NATURE OF COMPLAINT:

Claiming retirement benefits

COMPLAINT

The complainant was employed by Department U from 1987 to 1999 as a Manager. He alleged that he had been contributing to the pension scheme of the Social Security until his retirement on 25th June 1999. Following his retirement, he went to process his retirement benefits but was informed that he was not entitled to claim. He urged the Ombudsman to intervene.

FINDINGS

It was found that the complainant never registered with the Social Security Pension Scheme whilst he was employed by Department U as a Manager.

It was also found that the complainant's claim had no justification and his alleged contributions were not indicated in his appointment letter neither in his salary slips.

CONCLUSION

The complaint is therefore dismissed under section 9 (3) (a) of the Ombudsman Act 1997 for lack of merit.

MANSAKONKO

REGIONAL OFFICE

COMPLAINTS

CHAPTER 6

6.1 CASES BROUGHT FORWARD

COMPLAINT No: 5/2012
NATURE OF COMPLAINT: Claiming under-payment of salary

COMPLAINT

The complainant was employed by the Council as security guard in 2005. In 2007 the complainant was redeployed as Market Supervisor. He was promoted to the position of Senior Supervisor on Grade 5.7 on a letter Ref: MKAC/LGSC/083 dated 12th April 2012. In May 2012, he realised that his salary did not reflect what was stated in his promotion letter. He went to the Finance Director to find out why he was not paid the Grade stated on the promotion letter but was informed by the Chief Executive Officer (CEO) that the promotion was done in his absence and as a result he could not pay him. The complainant urged the Ombudsman to intervene so that he would be paid the salary difference from the date of his promotion.

FINDINGS

It was found that the complainant was appointed as security guard in 2005. He was redeployed as Market Supervisor and later promoted to the position of Senior Market Supervisor in April 2012.

It was found that the complainant was recommended by the Chief Executive Officer (CEO) for promotion and this was approved in April 2012.

RECOMMENDATION

Since the complainant's promotion was approved by the appointing authority, the Ombudsman recommended that the complainant be paid the salary difference as indicated in the promotion letter.

CONCLUSION

The complainant informed the office that he was paid the salary difference and the case was closed.

COMPLAINT No: 6/2012
NATURE OF COMPLAINT: Unfair treatment

COMPLAINT

The complainant was appointed as senior revenue collector by the Council. He alleged that in June 2012, he had an agreement with the chairman and the Acting Director of Finance to receive part payment of his salary and the balance to be paid later. The complainant alleged that he had made several efforts for the payment of the balance but to no avail. He stated that a deposit of D3800.00 was made by a revenue collector and he deducted D1100.00 being his balance owed by the Council and paid D2700.00 to the Treasurer but the Acting Director of Finance refused to accept the money insisting that he should pay the whole amount of D3800.00. The Chief Executive Officer gave a directive that the said sum be

deducted from the complainant's salary. He urged the Ombudsman to intervene so that the Council will pay him his balance of D1100.00.

FINDINGS

It was found out that the complainant worked as senior revenue collector at the Council. The Council owed him D5000.00 being arrears of allowance from March to June 2012. He was paid D3900.00 leaving a balance of D1100.00

The complainant was given D3800.00 to deposit to the Treasurer. He deducted his balance of D1100.00 from the money without approval from the Council. He went to deposit the balance of D2700.00 but the council asked him to pay the whole amount.

It was found out that instead of the complainant paying the D3800, he used the remaining D2700.00. The Director of Finance was directed to deduct D3800.00 from the complainant's salary. The Council further warned him to desist from such behaviour or stern disciplinary measures would be taken against him.

CONCLUSION

The Ombudsman advised the complainant that he should have followed the right procedures to recover his money from the Council rather than paying himself from the Council's revenue without approval this according to the Ombudsman is financial indiscipline and the council should take stern to arrest this.. The amount of D3800.00 was deducted from his salary and his balance of D1100.00 was later paid to him.

COMPLAINT No:

10/2012

NATURE OF COMPLAINT:

Non- Payment of Pension

COMPLAINT

The Complainant was appointed by Department A in 1977. He went on statutory retirement in 2011 and was receiving his pension allowance on a quarterly basis. In September 2012 he went to receive his pension but was told that it was not sent. Again in November 2012 he went to collect his pension but was told the same old story. He urged the Ombudsman to intervene.

FINDINGS

It was found that the complainant was retired from active service in 2011 and was receiving his pension allowance on a quarterly basis. He received the first and second quarters of his pension allowance without any difficulty but the third quarter was not forthcoming.

It was found out that the delay was at Department T in Banjul and not the Council.

CONCLUSION

The complainant was paid his quarterly allowance amounting to D960.00 (nine hundred and sixty dalasi).

6.2: MANSAKONKO REGIONAL OFFICE REPORT

COMPLAINT No: 1/2013
NATURE OF COMPLAINT: Claiming late husband's death gratuity

COMPLAINT

The complainant's husband worked for the Council for 14 years as a labourer. He fell sick and later died. She claimed the death gratuity of her late husband but all her efforts proved futile. She stated that her children were not going to school because she had no money to settle their fees. For two years her late husband's death gratuity could not be paid. She urged the Ombudsman to intervene for her late husband's death gratuity to be paid.

FINDINGS

It was found out that the complainant's late husband worked as a labourer at Mansakonko Area Council. He felt sick and died.

It was found out that the complainant's late husband's gratuity was computed and the file was sent to Ministry R in Banjul for processing but no follow-up was made by the Council.

CONCLUSION

The complainant was paid D13, 050.00(thirteen thousand and fifty dalasi) being her late husband's death gratuity. The Council was advised to give people's retirement benefits and gratuity due attention as any delay could have negative consequences for the beneficiaries.

COMPLAINT No: 2/2013
NATURE OF COMPLAINT: Claiming arrears of salary

COMPLAINT

The complainant was a watchman at School T for twenty years. On 23rd July 2012 there was theft at the Principal's Office. The matter was reported to the police station. The complainant and his colleague were arrested and charged with theft. He was stopped from work by the principal pending the outcome of the case. They were arraigned before the Magistrate Court for trial. He was acquitted and discharged on 10th January 2013. The complainant alleged that since July 2012, he was not paid salary and after his discharge, the Principal did not tell him anything concerning his fate. He went to the school to demand payment of his salary arrears but was made to understand that the school did not owe him a butut. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the complainant worked as a watchman at School T for about twenty years. He was accused of being involved in a theft case that occurred on 23rd July 2012 at the Principal's Office while he was on duty.

It was found out that the school used to have five watchmen. The services of two of them were terminated and one was retired. The complainant and colleagues were responsible for the entire school and the hostel.

It was also observed that the complainant is a disabled person and could hardly run after

thieves.

It was also found out that the complainant and his colleague were arrested and detained at the police station and later arraigned before the Magistrate Court for trial. During this period he was not paid salary neither was he interdicted or issued a termination letter by the school.

The complainant was acquitted and discharged by the Magistrate Court on 10th January 2013.

RECOMMENDATION

Since the school no longer needed his service the Ombudsman recommended that the complainant be paid salary arrears plus one month salary in lieu of notice.

CONCLUSION

The complainant was paid D19,246.00 (nineteen thousand, two hundred and forty- six dalasi) being notice and salary arrears from July 2012 to May 2013.

COMPLAINT No:

3/2013

NATURE OF COMPLAINT:

Claiming benefits

COMPLAINT

The complainant was an employee of a project. He stated that in 2012 his service was terminated. He claimed his social security benefit but was asked to wait for a cooling period of three months. After waiting for three months he was informed that he will be eligible for his benefits in three years. He urged the Ombudsman to intervene.

FINDINGS

It was found that the complainant worked for a project and his service was terminated when the Project phased out in 2012.

It was found that the complainant had two different dates of birth. At the time he registered with the provident fund the identity card he submitted indicated that he was born in 1970. When he claimed his social security benefits he submitted a different identity card showing that he was born in 1957.

CONCLUSION

Since the complainant had submitted two different dates of birth the Ombudsman upheld the decision of Department S that the complainant should wait for two years before he could access his benefits. The complaint was dismissed under section 9(3) (a) of the Ombudsman Act.

COMPLAINT No:

4/2013

NATURE OF COMPLAINT:

Environment pollution

COMPLAINT

The people residing around Market S complained of air pollution from the fish market, which they believed could result in serious health hazard. They alleged that the cleansing service of the Council hardly clean or collect the refuse regularly. They alleged that the stench from

the decomposed refuse was so horrible and made life in the entire surroundings uncomfortable. They emphasized that it is their right to live in an environment free of health hazard and since they pay tax, they have a right to claim the basic amenities such as clean environment. They urged the Ombudsman to intervene.

FINDINGS

The Ombudsman contacted the relevant authorities. The site was inspected and it was found out that the safety tank at the fish market was full and the stench was unpleasant. The spillage of fish water on the floor was not regularly cleaned.

RECOMMENDATION

The Ombudsman recommended that the safety tank be drained with immediate effect.

The Council's cleansing service should regularly clean the fish market to reduce the unpleasant odour.

The relevant authorities should constantly monitor the site to ensure that it is regularly cleaned so that those residing within the area can enjoy fresh air.

CONCLUSION

The safety tank was drained with immediate effect and the residents around the fish market expressed satisfaction for being able to go about their normal activities without experiencing unpleasant odour.

COMPLAINT No:

5/2013

NATURE OF COMPLAINT:

Claiming salary arrears

COMPLAINT

The complainant is a senior revenue collector at the Council. In February 2000, he was accused of involving in financial mismanagement, which led to his indefinite suspension. He took a civil suit against the Council claiming the payment of his salary arrears. Judgment was entered in his favour and the Council was to pay him damages of D150, 000 dalasi with 10% interest per annum. It was also ordered that he should be paid transport allowances and house rent from the date of suspension up to the date of judgment. He said that he was not paid this money. He tried on several occasions for the payment of his money but all his efforts were fruitless. He urged the Ombudsman to intervene so that his money could be paid.

FINDINGS

It was found that the complainant took the council to court and judgment was entered in his favour. He was awarded damages of D150, 000.00 (one hundred and fifty thousand dalasi) with 10% interest per annum.

The complainant entered into an agreement with the Council that he would be reinstated and paid D10, 000.00 monthly until the amount is liquidated.

It was found that the Council was unable to honour the agreement due to financial constraints and records had shown that the complainant was paid D10, 000.00 (ten thousand dalasi) once.

RECOMMENDATION

The Office recommended that the Council should honour the agreement made with the complainant or else he will be advised to go to the High Court for the enforcement of the judgment.

CONCLUSION

Following the mediation of the Office the complainant informed the Ombudsman that he is now being paid as previously agreed.

COMPLAINT No:

6/2013

NATURE OF COMPLAINT:

Unfair Treatment

COMPLAINT

The complainant worked as an orderly at the health centre. He had an accident while riding a bicycle. He sustained injuries on the face, eye and nose and also had bruises all over his body. He was referred to hospital X. The complainant alleged that he was asked to produce a national identity card. He told the hospital staff that he did not bring his identity card. He was told that since it was a weekend he would not be attended by the doctor until Monday. An X-ray was conducted on him but he was not given any medication. He spent the whole of that night suffering in pain and unattended. He urged the Ombudsman to intervene.

FINDINGS

The complainant worked as an orderly at the health centre. He had an accident on 5th April 2013 while riding a bicycle and sustained injuries on the face and other parts of the body. .

It was found that upon arrival, he was attended by the nurse on duty at the Accident and Emergency Unit and he was also referred for X-Ray by the doctor on call. It is a procedure at the hospital that patients are asked to produce their national identity card and the complainant was no exception to this rule.

The complainant spent the night at the hospital. During this period he was not given medication until the following morning when a clinical review was conducted on him and was declared fit and given an appointment on the following Monday. After his release the complainant was admitted to the health centre for five days.

RECOMMENDATION

The Ombudsman recommended to the Chief Executive Officer that his staff should endeavour at all time to be customer focused and exercise professionalism towards patients especially those in emergency situations.

COMPLAINT No:

7/2013

NATURE OF COMPLAINT:

Claiming salary arrears

COMPLAINT

The complainant was appointed as watchman by School T in 2003. Theft occurred at the principal's office on 23rd July 2012. The complainant and colleague were taken to the police station where they were interrogated and charged with stealing. He was arraigned before the magistrate court for trial. They were acquitted and discharged. During this period he was not paid salary neither was he interdicted or issued a termination letter by the school. He urged the Ombudsman to intervene.

FINDINGS

The complainant was watchman at School T. On 23rd July 2012 a theft occurred at the Principal's Office while the complainant was on duty.

It was also found out that the complainant and his colleague were arrested and detained at the police station and later arraigned before the magistrate court for trial. During this period he was not paid salary neither was he interdicted or issued with a termination letter by the school.

The complainant was acquitted and discharged by the magistrate court on 10th January 2013.

CONCLUSION

The Ombudsman recommended that the complainant be paid his salary arrears and one month salary in lieu of notice. He was paid D18,894.00 (eighteen thousand, eight hundred and ninety-four dalasi) being notice and salary arrears from July 2012 to May 2013.

COMPLAINT No:

8/2013

NATURE OF COMPLAINT:

Stoppage of salary

COMPLAINT

The complainant was employed as a labourer at the Council in 2008. He sustained injury in June 2012 whilst draining a safety tank at the market. He had been reporting to work but was unable to do heavy duty. He sought permission to go for local treatment in his village. In April 2013, he went to receive his salary but the CEO told him that he would not be paid because he had not been reporting for work. He informed the CEO that he was still undergoing treatment but he insisted that he would not pay him any salary. He urged the Ombudsman to intervene.

FINDINGS

The complainant is a labourer at the Council. He sustained injury on his finger while draining the safety tank. He was taken to the health centre where he was treated.

He had been reporting to work but was unable to do any heavy duty. He was granted permission to go for local treatment whilst being paid salary until April 2013. The CEO instructed the Finance Director to stop his salary.

It was observed that one of the complainant's fingers was deformed and the injury was not completely healed. However there was not medical paper which showed any percentage disability to claim for injury compensation

RECOMMENDATION

Based on the severity of the complainant's injury the Ombudsman recommended that he be paid salary for April 2013 and consideration be given to assign him light duties

CONCLUSION

The complainant was paid his April salary and was redeployed as watchman.

COMPLAINT No:

10/2013

NATURE OF COMPLAINT:

Unfair treatment

COMPLAINT

The complainant was appointed as labourer at the Council on 1st May 2004. He stated that his unit was responsible for dumping refuse at the dumpsite but it was not provided with health facilities and working gears such as gloves, shoes and nose cover. He further alleged that his unit does all the filthy work and yet they are not paid transport allowance. He urged the Ombudsman to intervene.

FINDINGS

The complainant is a labourer at the Council. His unit is responsible for collecting waste and dumping it at the dump site.

The complainant and colleagues were not issued with gloves, nose covers, uniforms and shoes as required by the safety regulations to protect them from health hazard.

It was found out that the complainant trekked from his village to come to workma without being paid transport allowance.

RECOMMENDATION

The Ombudsman recommended that the Council should provide gloves, nose covers, uniforms and shoes to the labourers to protect them from any possible health hazard and that the complainant be paid transport allowance since he travels a long distance to work.

CONCLUSION

The labourers were supplied with gloves, shoes, nose covers and uniforms to protect them from contacting diseases, and the complainant was paid transport allowance.

COMPLAINT No:

11/2013

NATURE OF COMPLAINT:

Claiming a month's notice plus terminal benefits

COMPLAINT

The complainant was appointed as home science teacher at School J on 1st September 2012. He alleged that on 29th August 2013, he received a telephone call from the Vice Principal informing him that his service with the school was no longer needed. He requested a letter of termination but was not issued with any. He urged the Ombudsman to intervene so that he could be paid a month's notice plus terminal benefits.

FINDINGS

The complainant was appointment by School J as a home science teacher. His contract was supposed to end on 29th August 2013.

It was found that the complainant was asked to reapply for renewal of his appointment, which he did in July 2013. However his application for renewal was not approved because his performance was not satisfactory.

There is no written evidence querying the complainant for being inefficient. He was not paid any benefit following the expiry of his contract.

RECOMMENDATION

The complainant had successfully completed the period of the contract of appointment. The Ombudsman recommended that the complainant be paid all benefits due to him.

CONCLUSION

The complainant was paid contract gratuity amounting to D4, 497.00 on Trust Bank cheque number 01397944 dated 30th August 2014.

COMPLAINT No: 12/2013
NATURE OF COMPLAINT: Claiming a month's notice plus terminal benefits

COMPLAINT

The complainant was appointed as agricultural science teacher at School B in February 2012. He was teaching the grade seven students. He alleged that on 29th August 2012, he was informed by the Vice Principal that his service was terminated. He requested a letter of termination but was not issued with any. He alleged that he was never issued with an appointment letter. The Principal only read to him the terms and conditions of the appointment and asked him whether he consented to the offer, which he accepted. He urged the Ombudsman to intervene so that he would be paid notice and terminal benefits.

FINDINGS

It was found that the complainant was appointed at School B in February 2013 as agricultural science teacher.

He was not issued with an appointment letter due to the fact that the school printer had a breakdown. However he was given a copy of the terms and conditions of appointment.

According to the terms and conditions of appointment, the complainant's appointment would come to an end on 29th August 2013. At the expiry of the contract, the complainant applied for renewal of his contract but approval was not given.

It was found out that the complainant had two appointments; he was an employee of Ministry A and at the same time appointed by School B.

CONCLUSION

Since the complainant was appointed by School B which receives its subvention from government. It is illegal for the complainant to take full time appointment from both institutions. The complaint is dismissed under section 9(3) (a) of the Ombudsman Act.

COMPLAINT No:

13/2013

NATURE OF COMPLAINT:

Non- issuance of children's results

COMPLAINT

The complainant's children sat the Gambia Basic Education Certificate Examination for the academic year 2013. They obtained aggregates 18 and 19 respectively. The complainant's children choice of school before the examination was School M. He went to the Principal to collect his children's results but was told that the result's would not be released because the school management committee had decided that no student would be allowed to go to another school because village B has a Senior Secondary School. The complainant did not agree because he wanted the children to attend a senior secondary school that offer science subjects and village B was not offering science subjects. The principal tried to persuade him not to take the children to another school but he did not pay heed to the principal's advice. The principal refused to release the children's results. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the complainant's children sat The Gambia Basic Education Certificate Examination for the academic year 2012/2013 and obtained aggregates 18 and 19.

It was found out that the upper basic school and the senior secondary school were headed by the same principal.

It was observed that the school management committee wanted to maintain all those students who performed well in the exams so as to maintain the good image of the school. Thus all students were advised to proceed to the senior secondary school.

CONCLUSION

The Ombudsman recommended that the results be released to the complainant before it was too late for registration at the school of the parent's choice. The results were released and the matter was resolved.

COMPLAINT No:

14/2013

NATURE OF COMPLAINT:

Non-payment of stipend

COMPLAINT

The 2013 trainees of Institute R alleged that they did not receive their stipends on time. They had not been paid stipends for almost three months. They reported the matter to the authorities so that they would intervene for the payment of their stipends but their plight was still not address. They alleged that they depend on their stipends for their daily meals. They urged the Ombudsman to intervene.

FINDINGS

Institute R is a boarding institution. The students were twenty-six in number and each of them was entitled to a monthly stipend of D500.00.

It was found out that from the stipend each student contributes D350.00 every month for their feeding. The stipends for October and November 2013 were not paid on time and this prompted the students to complain to the authorities.

It was found out that the delay in payment of stipends was caused by the Accounts Unit at Department C.

RECOMMENDATION

The Ombudsman recommended that Department C should ensure that stipends are paid on time since the students entirely depend on it for their daily meals and that the arrears be paid immediately.

CONCLUSION

The stipends for October and November 2013 were paid and the students commended the Ombudsman.

BASSE

REGIONAL OFFICE

COMPLAINTS

CHAPTER 7

7.1 BASSE REGIONAL OFFICE REPORT

COMPLAINT No: 1/2013
NATURE OF COMPLAINT: Dissatisfaction with handling a case

COMPLAINT

The complainant is a petty trader and deals in textile materials at the Basse market. She alleged that in September 2012, her younger brother broke into her house and stole two “Nganila” materials worth four thousand eight hundred dalasi. She reported the matter to the police station. The scene of the crime was visited by the police and her statement was obtained. On 4th October 2012, she went to the station officer to enquire about the progress on her case, but was informed that the case was still under investigation. He believed her case was delayed unnecessarily and urged the Ombudsman to intervene.

FINDINGS

It was found out that the complainant reported a theft case to the police station and a case file was opened to the effect but the accused person absconded to Senegal.

CONCLUSION

On 10th January 2013, the mother of the accused person paid the complainant D4800.00 being the cost of two “Nganila” materials. The complainant thanked the Ombudsman for his intervention.

COMPLAINT No: 2/2013
NATURE OF COMPLAINT: Requesting for mediation

COMPLAINT

The complainant is a contractor. He said that on 18th December 2012, he was awarded a contract to erect concrete poles for the fencing of the President’s farm at Sotuma Serre village in Jimara District amounting to D250,000.00 (two hundred and fifty thousand dalasi) . The money was given to a chief for him to start work but the chief failed to give him the money. He tried to contact the chief but to no avail. He urged the Ombudsman to intervene for the delivery of the money.

FINDINGS

It was found out that the chief received D250, 000.00 to be delivered to the complainant to erect concrete poles for fencing of the President’s farm at Sotuma Serre village in Jimara District.

The money was not delivered on time because the chief was sick.

CONCLUSION

When the chief was contacted, he phoned the contractor and asked him to come and collect the money. On 30th January 2013 the complainant informed the Ombudsman that he had received the money and had already purchased the materials to start the work.

COMPLAINT No: 3/2013
NATURE OF COMPLAINT: Unlawful detention

COMPLAINT

The complainant is a cattle dealer. He said that on 3rd February 2013, he had two female sheep which he took to Livestock Marketing Centre for sale. He sold the two sheep for D4200.00 (four thousand two hundred dalasi). In the evening he was asked to report to the police station. He was asked to narrate what transpired between him and the buyer. Following his explanation he was asked to refund the buyer his money but he refused. He was detained behind the counter. He urged the Ombudsman to intervene.

FINDINGS

It was found that the complainant's detention was not recorded in the station diary; however the police officer confirmed receiving the complaint. He did not record it in the station diary because it was a civil matter.

The complainant was detained and was only released following the intervention of the Office

CONCLUSION

The police officer was reprimanded by his authorities and warned that if he should commit a similar act again he would be demoted in rank.

COMPLAINT No: 4/2013
NATURE OF COMPLAINT: Unfair treatment

COMPLAINT

The complainant is a shopkeeper. He said that on 6th February 2013, a Public Health Inspector came to his shop and requested to inspect the shop. He was not comfortable with the mode of the inspection and reported the matter to the Ombudsman because he had the view that the public health officer wanted to take advantage on him.

FINDINGS

An inspection was conducted in the complainant's shop and it was found out that eleven packets of Cracker biscuits were expired.

CONCLUSION

The Cracker biscuits were destroyed. The complainant was not unfairly treated as he believed. The case is dismissed under section 9(3) (a) of the Ombudsman Act.

COMPLAINT No: 5/2013
NATURE OF COMPLAINT: Corrupt practice

COMPLAINT

The complainant stated that in 2010 an officer of Department W came to his village and told him that he could help them to have a well. He informed his people about the animator's proposal. They all welcomed the idea. The officer demanded D3500.00 from him. He gave him the money but he failed to provide them with a well. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the officer of Department W illegally received D3500.00 (three thousand five hundred dalasi) from the Alkalo to help them have a well.

CONCLUSION

The officer was ordered to refund the D3500.00 to the Alkalo. The money was paid to the Alkalo on 22nd February 2013. The officer was strongly warned to desist from such malpractice or else stern disciplinary measures will be taken against him.

COMPLAINT No: 6/2013
NATURE OF COMPLAINT: Corruption

COMPLAINT

The complainant stated that in December 2012, a security officer posted at Basse demanded D2500.00 (two thousand five hundred dalasi) from him, in order to help him obtain a Gambian national identity card. He gave him the money but he failed to issue him with an identity card. He requested a refund of his money but all his efforts proved futile. He urged the Ombudsman to intervene.

FINDINGS

The security officer confessed receiving D2500.00 from the complainant but failed to get him an Identity Card.

It was found out that the complainant was not a Gambian but a Malian.

The security officer intended to obtain a Gambian document for the complainant by false declaration contrary to section 31 (h) of the Immigration Act Cap 16.02.

CONCLUSION

The Ombudsman ordered the security officer to refund the complainant D2500.00. On 28th February 2013, the complainant informed the Ombudsman that he had received D2500.00 (two thousand five hundred dalasi). The matter was reported to the authorities and the security officer was warned to desist from such malpractice otherwise stern disciplinary measures will be taken against him.

COMPLAINT No: 7/2013
NATURE OF COMPLAINT: Malpractice

COMPLAINT

The complainant is a trader. On 16th March 2013 a security officer asked for his identity card. He told him that his house was broken into and all his documents were stolen. He showed him his identity card ref no. 26/14/11/2011 but he was not convinced and asked him to come down from the vehicle. He demanded from him D500 (five hundred dalasi) or else he would not release him. He refused to give any bribe and as a result he was detained until 6pm. He insisted that he must pay fifty dalasi for the visiting pass, which he paid. The complainant believed that he was unfairly treated. He urged the Ombudsman to intervene.

FINDINGS

An identification parade was conducted, and the complainant identified the officer who collected fifty dalasi from him.

The matter was reported to the authorities and the officer was charged for discreditable conduct, fined three hundred dalasi and transferred to SareNgai.

CONCLUSION

The officer also paid the complainant D200.00 (two hundred dalasi) as compensation.

COMPLAINT No: 11/2013
NATURE OF COMPLAINT: Claiming balance of night allowance

COMPLAINT

The complainant is a driver. He said that in April 2013, he travelled with his Director to the Kombos on an official duty where they spent thirteen nights. He applied for night allowances, which amounted to D6500.00 (six thousand five hundred dalasi), but the Director approved only three nights. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the director paid the complainant three nights instead of thirteen nights. The Director General was contacted and he directed the Accountant to pay the complainant the balance of ten nights.

CONCLUSION

On 15th June 2013, the complainant informed the Ombudsman that he had been paid D4500.00 (four thousand five hundred dalasi).

COMPLAINT No: 13/2013
NATURE OF COMPLAINT: Malpractice

COMPLAINT

The complainant stated that his wife had given birth to a boy on 2nd June 2013 at the health centre. A nurse by the name K was on duty. The nurse charged him D1800 (one thousand eight hundred dalasi) for the bed fee, which he paid but the nurse failed to issue him with a receipt. He made several efforts so that she could issue him with a receipt but all his efforts were fruitless. He urged the Ombudsman to intervene.

FINDINGS

It was found out that K was not an employee of the health centre. She was only a volunteer.

K admitted receiving D1800 from the complainant without issuing him with a receipt.

CONCLUSION

The authorities attention was brought to the matter and K was ordered to refund the complainant D1800.00. The complainant was refunded the money on 12th June 2013.

COMPLAINT No: 17/2013
NATURE OF COMPLAINT: Requesting refund for the cost of eleven plots of land

COMPLAINT

The complainant stated that he bought eleven (11) plots of land from the Alkalo for D5000.00 (five thousand dalasi) per plot, which amounted to D55, 000.00 (fifty- five thousand dalasi). In 2013, a highway was constructed from Allunhari to MansaJang, which affected seven of his plots. The complainant stated that he was no longer interested in the plots and asked the Alkalo to refund him the cost of the eleven plots. He urged the Ombudsman to mediate on his behalf for the refund of his money.

FINDINGS

It was found that the Alkalo sold eleven plots of land measuring 25x25 square metres each for a total amount of D55, 000.00. Out of the eleven plots seven were affected during the highway construction from Allunhari to Mansajang village.

CONCLUSION

The Alkalo was advised to reallocate the complainant another seven plots of the same size or refund the complainant his money. The Alkalo decided to refund the complainant D55, 000.00. The complainant thanked the Ombudsman for his intervention.

COMPLAINT No: 18/2013
NATURE OF COMPLAINT: Stoppage of salaries

COMPLAINT

The complainant was posted to CRR as a teacher in 2012. He wrote to the Director of Education on 26th June 2013 alleging that his salary for two months (February and March) plus double shift allowances for five months (September 2012 to January 2013) were seized. He urged the Ombudsman to intervene.

FINDINGS

It was found out that the complainant's name was not included in the double shift because every school has a limit.

The first term teacher attendance for JBCS indicated that the complainant absented himself for 100 days. He again absented himself for 37 days during the second term and as a result his salaries for February and March 2013 were not paid.

CONCLUSION

The complainant's attitude towards work leaves much to be desired. The decision made by the ministry to stop his salary is upheld. The case is dismissed under section 9(3) (a) of the Ombudsman Act.

AN UPDATE ON THE 2013 PAC/PEC REPORT RECOMMENDATIONS

The Office of the Ombudsman Activity report was not tabled due to the fact that the presentation team did not constitute a quorum. The recommendation of the PAC/PEC was relayed to the Authorities and they are working on regularizing the situation.

An Ombudsman was appointed effective 1st August 2014 and the Office of the President is working towards appointing the two Deputy Ombudsman

TABLE 1: COMPLAINTS REGISTERED AT HEADQUARTERS AGAINST VARIOUS DEPARTMENTS& ORGANISATIONSFOR THE YEAR 2013

| DEPARTMENT COMPLAINED AGAINST | ABBR. | NUMBER OF CASES | PERCENTAGE |
|---|-----------|-----------------|-------------|
| Ministry of Basic and Secondary Education | MoBSE | 7 | 13% |
| Gambia Ports Authority | GPA | 4 | 8% |
| Social Security & Housing Finance Corporation | SSHFC | 4 | 8% |
| Ministry of Health and Social Welfare | MoHSW | 3 | 6% |
| Gambia Police Force | GPF | 3 | 5% |
| Kanifing Manicipal Council | KMC | 3 | 5% |
| Gambia Armed Force | GAF | 3 | 5% |
| Ocean Bay Hotel | OBH | 3 | 6% |
| Personnel Management Office | PMO | 2 | 4% |
| Gambia Radio and Television Services | GRTS | 2 | 4% |
| National Water and Electricity Company | NAWEC | 2 | 4% |
| Gambia National Lottery | GNL | 2 | 4% |
| Gambia Immigration Department | GID | 2 | 4% |
| Judiciary | JUD | 1 | 2% |
| Gambia Senior Secondary School | GSSS | 1 | 2% |
| Alkalo | ALK | 1 | 2% |
| Gambia Football Association | GFA | 1 | 2% |
| Serrekunda Hospital Kanifing | SKH | 1 | 2% |
| Gambia Revenue Authority | GRA | 1 | 2% |
| Gambia Prisons Services | GPS | 1 | 2% |
| National Intelligence Agency | NIA | 1 | 2% |
| Gambia Public Printing Corporation | GPPC | 1 | 2% |
| Department of Water Resources | DWR | 1 | 2% |
| Gambia Hotel School | GHS | 1 | 2% |
| Banjul City Council | BCC | 1 | 2% |
| Total | TC | 52 | 100% |

CASES REGISTERED AT HEADQUARTERS AGAINST VARIOUS ORGANISATIONS AND DEPARTMENTS IN 2013

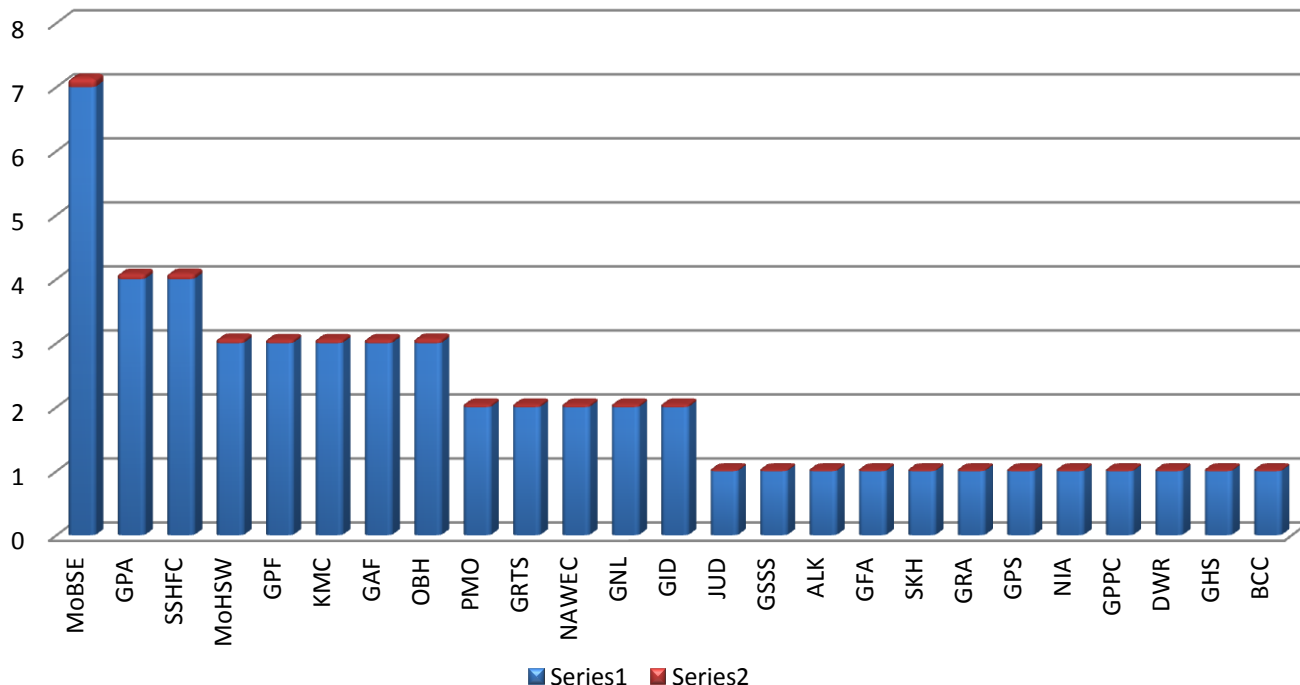


TABLE 2: NATURE OF COMPLAINTS REGISTERED AT HEADQUARTERS IN 2013

| NATURE OF CASES | NUMBER OF CASES | PERCENTAGE |
|------------------------|-----------------|-------------|
| Unlawful Dismissal | 12 | 23% |
| Unfair Treatment | 9 | 17% |
| Retirement Benefit | 7 | 13% |
| Stoppage of Salary | 6 | 12% |
| Unlawful Termination | 5 | 9% |
| Contract Gratuity | 3 | 6% |
| Unlawful Suspension | 2 | 4% |
| Death Gratuity | 2 | 4% |
| Pre-mature Retirement | 2 | 4% |
| Unlawful Discharge | 2 | 4% |
| Torture | 1 | 2% |
| Claiming Leave Arrears | 1 | 2% |
| Grand Total | 52 | 100% |

NATURE OF COMPLAINTS REGISTERED AT HEADQUARTERS IN 2013

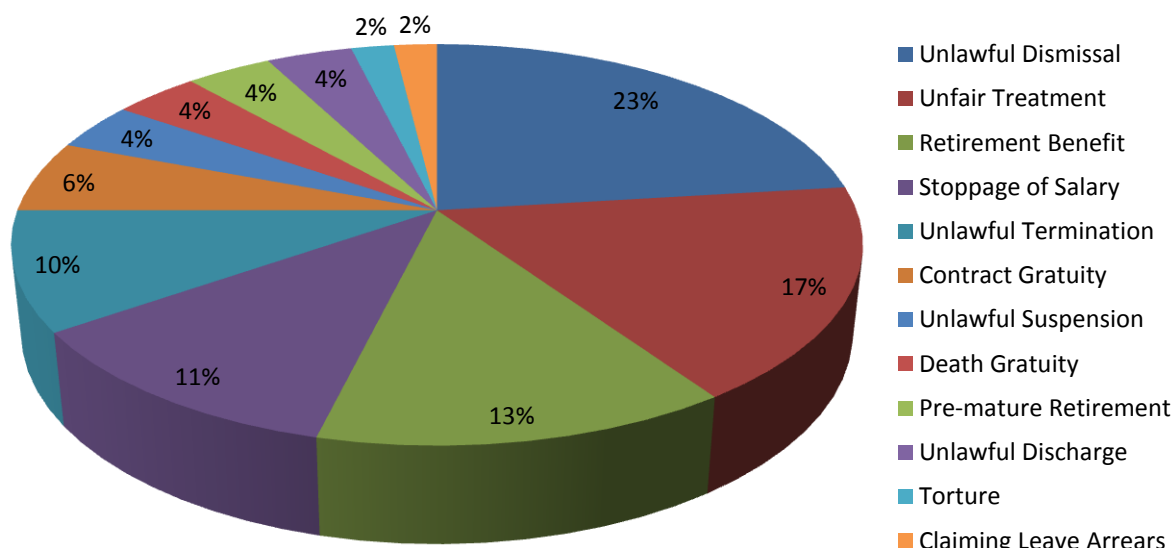


TABLE 3:

| NATURE OF CLOSURE | NUMBER OF CASES | PERCENTAGE |
|-------------------|-----------------|-------------|
| Settled | 17 | 33.% |
| Discontinued | 10 | 19.% |
| Dismissed | 13 | 25% |
| Sub Judice | 2 | 4% |
| Pending | 10 | 19% |
| Total | 52 | 100% |

| | Number of cases | Percentage |
|-----------------|-----------------|------------|
| Cases completed | 42 | 81% |
| Pending | 10 | 19 |
| Total | 52 | 100 |

TABLE: 4**OVERALL CASES RECEIVED IN THE YEAR 2013**

| To number of cases received at headquarters including cases registered at the regional offices | Total number of complaint satisfactorily resolved at headquarter including cases registered at the regional offices | Total number of complaints pending at headquarters including cases registered at the regional offices |
|---|--|--|
| 95 | 49 | 15 |

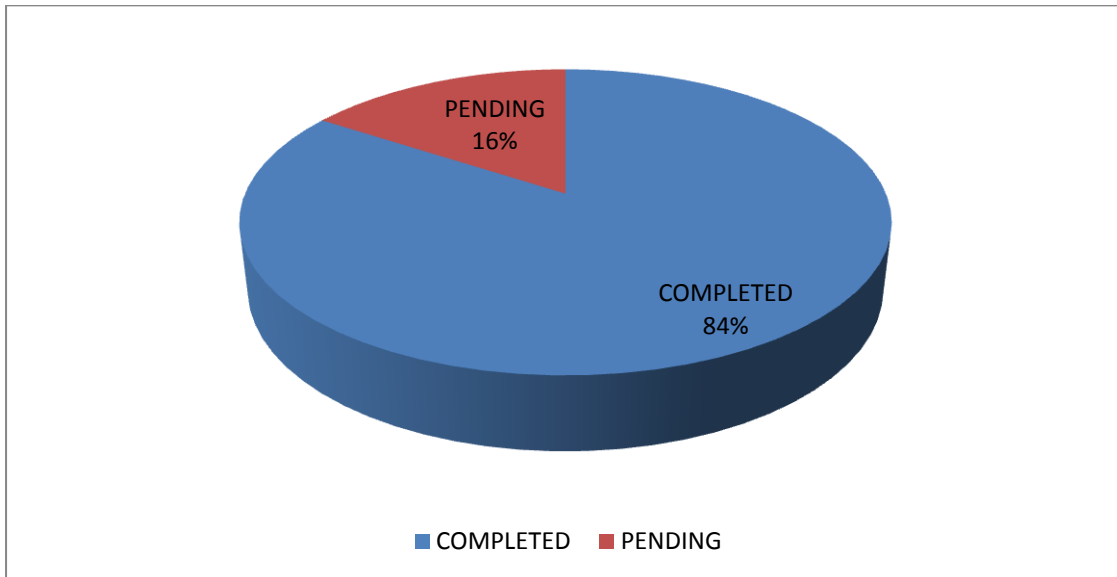
TABLE:5**NATURE OF CLOSURE OF OVERALL CASES RECEIVED IN THE YEAR 2013**

| NATURE OF CLOSURE | NATURE OF CASES | PERCENTAGE |
|-----------------------------------|------------------------|-------------------|
| SETTLED IN FAVOUR OF COMPLAINANTS | 49 | 52% |
| DISCONTINUED | 10 | 10% |
| DISMISSED | 19 | 20% |
| SUBJUDICE | 2 | 2% |
| PENDING | 15 | 16% |
| TOTAL CASE | 95 | 100% |

TABLE: 6

STATUS OF OVERALL CASES RECEIVED IN THE YEAR 2013

| CASES | NUMBER OF CASES | PERCENTAGE |
|--------------|------------------------|-------------------|
| COMPLETED | 80 | 84% |
| PENDING | 15 | 16% |
| TOTAL | 95 | 100% |



APPENDIX A

CHAPTER TEN OF THE CONSTITUTION OF THE REPUBLIC OF THE GAMBIA 1997

CHAPTER X

THE OMBUDSMAN

- 163. National -
Assembly to
establish
Office of
Ombudsman**
- (1) Subject to the provisions of this Constitution, an Act of the National Assembly shall within six months of the coming into force of this Constitution establish the Office of the Ombudsman and provision for his or her functions and duties-
- (a) in the investigation of any action taken by a government department or other authority, or public body, to which the Act applies, being action taken in the exercise of the administrative functions of that department or authority, on a complaint by a member of the public who claims he or she has suffered injustice in consequence of maladministration or mismanagement, or discrimination on any ground set out in Chapter IV, in connection with such action;
 - (b) in the investigation, on his or her own initiative, of allegations of maladministration, mismanagement or discriminatory practices in any government department, authority, or other public body, to which the Act applies; and
 - (c) in the investigation of complaints of any failure to observe the code prescribed in Chapter (XXI) for the conduct of public officers.
- (2) Without prejudice to the generality of subsection (1), an Act of the National Assembly may;
- (a) determine the departments, authorities and other public bodies to which the Act shall apply;
 - (b) determine the actions or classes of action which may be subject to such investigations;
 - (c) determine the departments, authorities, public bodies and actions which shall be excluded from such investigations;
 - (d) determine the procedure to be adopted in any investigation and the powers which may be exercised in the course of such investigation, including the power of the Ombudsman to require persons to furnish documents and other information and to provide evidence, and provide for the right of any department, authority, other public body or person to be heard when its, or his or her, actions are the subject of an investigation;

- (e) provide for sanctions for the obstruction of the Ombudsman in the exercise of his or her functions or a failure to comply with his or her lawful requirements;
- (f) provide for the making of reports by the Ombudsman, including an annual report to the National Assembly, and reports to the Inspector General of Police in the event of his or her investigations disclosing the commission of a criminal offence or to the Attorney-General in the event of their disclosing any other failure to comply with a provision of law;
- (g) provide for the appointment of one or more Deputy Ombudsman to exercise, under the directions of the Ombudsman, the functions of that office.
- (h) Make such administrative and financial provisions as may be necessary or desirable for the efficient functioning of the Office of Ombudsman.

**164.
Appointment and
tenure of
office of**

Ombudsman

- (1) The President shall appoint an Ombudsman and his or her Deputies in consultation with the Public Service Commission, subject to confirmation of the National assembly within seven days of the presentation of the request.
- (2) In making an appointment under this section, the President shall have regard to the need for persons exercising the functions of Ombudsman to have substantial administrative or professional experience.
- (3) The Office of the Ombudsman and Deputy Ombudsman shall be offices in the public service.
- (4) A person shall not be qualified to hold office as Ombudsman or Deputy Ombudsman if he or she is a Member of the National Assembly, a Secretary of State or State or holds any other public office.
- (5) Subject to this Constitution, an Act of the National Assembly shall prescribe the tenure and terms of service of the Ombudsman and any Deputy Ombudsman.
- (6) An Ombudsman or Deputy Ombudsman may only be removed from office by the President for inability to discharge the functions of his or her office (whether arising from infirmity of mind or body or from any other cause) or for misconduct, and shall not be removed unless the National Assembly has appointed a tribunal to investigate the case

and his or her removal has been approved by resolution of the National Assembly supported by the votes of not less than two-thirds of all the members of the National Assembly. The Ombudsman or a Deputy Ombudsman shall have the right to be heard and to be legally represented before the tribunal.

165.Independence of Ombudsman

- (1) Subject to the provisions of this chapter, in the exercise of his or her functions, the Ombudsman and a Deputy Ombudsman shall not be subject to the direction or control of any person or authority but subject only to the Constitution and the law.
- (2) All departments, authorities and other public bodies which are subject to investigation by the Ombudsman shall accord such assistance as he or she may require for the protection of the independence, dignity and effectiveness of the Ombudsman in the performance of his or her functions.

APPENDIX B

THE OMBUDSMAN ACT 1997

AN ACT to establish the Office of the Ombudsman and to define and prescribe the powers, duties and functions of the Ombudsman was assented to by the President on 29th September 1997.

ENACTED by the President and the National Assembly of The Gambia.

- Short Title** 1. This Act may be cited as the Ombudsman Act 1997 and shall come into force on such date as the Secretary of State may by order published in the Gazette appoint.
- Establishment** 2. (1) There is hereby established the Office of the Ombudsman which shall consist of the Ombudsman and two Deputy Ombudsmen.
- (2) The Ombudsman and Deputy Ombudsmen shall be appointed by the President in consultation with the Public Service Commission and subject to confirmation by the National Assembly.
- (3) The Ombudsman and Deputy Ombudsmen shall be appointed for a period of five years and shall be eligible for re-appointment.
- (4) The Ombudsman and Deputy Ombudsmen shall, before entering upon the duties of office, take an oath of office.
- (5) The Ombudsman and Deputy Ombudsmen shall not hold any other public office.
- (6) The Ombudsman and any Deputy Ombudsman shall constitute a quorum for the purpose of arriving at any decision.
- Functions of the Ombudsman** 3. (1) In addition to the functions of the Ombudsman under the Constitution, the Ombudsman shall have the following functions -
- a. to investigate complaints of injustice, corruption, abuse of power, maladministration and unfair treatment of any person by a public officer in the exercise of official duties;
- b. to investigate complaints concerning the functioning of the Public Service Commission, the administrative and security organs of the State, the Police Service and Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment to those services or fair administration in relation to those services.
- (2) The Ombudsman may, where it is considered desirable, investigate into any matter referred to in paragraphs (a) and (b) of subsection (1)

Action or steps to be taken in connection with outcome of inquiry or investigation

4. (1) The Ombudsman shall after holding any enquiry or investigation
- a) recommend appropriate action or steps to call for or require the remedying correction and reversal of matters or instances specified in section 3 through such means as are fair, proper and effective;
 - b) notify the person who laid the matter before the Ombudsman of the outcome of such inquiry or investigation in such manner and form as the Ombudsman may determine and to such extent as the Ombudsman may deem necessary in the public interest or that the matter shall not be further enquired into or investigated in terms of section 8.

General powers of the Ombudsman

5. (1) For the purposes of performing his or her functions, the Ombudsman shall have the following powers –
- (a) to determine the nature and extent of any inquiry or investigation referred to him or her;
 - (b) upon the issue of a warrant under the hand of the Ombudsman to enter at any time any building or premises or any part of any building or premises to make enquiries and put such questions to any person in connection with the matter in question;
 - (c) access to all books, vouchers, stamps, securities, equipment, stores and other movable goods in the possession or under the control of any person;
 - (d) to request particulars and information from any person;
 - (e) to make enquiries into, extracts from or copies of any book, voucher or other document which he or she deem necessary in connection with any inquiry or investigation;
 - (f) to seize anything which they deem necessary in connection with an inquiry or investigation.

Power to summon witnesses

6. (1) The Ombudsman shall have the power to summon witnesses and to examine witnesses under oath.
- (2) A summons for the attendance of a witness or the production of documents shall be served in the same manner as if it were a subpoena for the attendance of a witness in court.
- (3) The ombudsman may by warrant order the arrest of any person, who after being served with a summons fails to appear before it.

Orders by Ombudsman

7. Orders, writs and directions issued by the Ombudsman shall have the same force as an order, writ or direction of the High Court.

Certificate of the President

8. (1) Notwithstanding section 5, where the President has certified that the giving of any information, or the production of any document -
- a) might prejudice the security, defence or international relations of the State or the investigation or determination of offences; or

- b) might involve the disclosure of the deliberation of the Cabinet or any sub-committee of the Cabinet relating to matters of a secret or confidential nature and would be injurious to the public interest;

the Ombudsman shall not require the information to be given or the document to be produced.

Jurisdiction of Ombudsman

9. (1) The Ombudsman shall have jurisdiction to inquire into the conduct of any person to whom this Act applies.

(2) Notwithstanding subsection (1), the Ombudsman shall not have power to question or review -

- a) the decision of any court of law or of any judicial officer in the exercise of judicial functions;
- b) decisions of any tribunal established by law;
- c) any matter which is sub-judice;
- d) any matter relating to the exercise of the prerogative of mercy, and
- e) any matter relating to the affairs of the President.

(3) (1) The Ombudsman may decide to discontinue an investigation where he or she is satisfied that -

- a) the complaint is trivial, frivolous, vexatious, or not made in good faith; or
 - b) the inquiry would be unnecessary, improper or fruitless.
- (4) The Ombudsman shall, in any case in which he or she decides to discontinue an investigation, inform the complainant in writing accordingly but shall not be bound to give any reasons.

Investigations to be in camera

10. (1) Every investigation under this Act shall be in camera.

(4) Notwithstanding subsection (1), the Ombudsman may in the public interest publish his or her findings at the end of an investigation.

Provisions relating to complaints and allegations

11.(1) A complaint under this Act can be made by anybody in any form; provided that where a complaint is made orally it shall be reduced into writing by a member of staff of the Ombudsman.

(2) Notwithstanding the provisions of any written law, where a prisoner or any other person held in any institution makes an allegation or complaint to the Ombudsman, such allegation or complaint shall not be made through, or subject to the scrutiny of any other person.

Evidence and procedure

12. (1) The procedure for conducting an investigation shall be such as the Ombudsman consider appropriate in the circumstances.

- (2) The Ombudsman may authorise any of his or her staff to exercise any of the powers under section 5.
- (3) Where the Ombudsman proposes to conduct an investigation, it

shall afford to the principal officer of any department or authority concerned, and to any other person who is alleged to have taken or authorised the action complained of, an opportunity to comment on any allegation made to him or her.

Reports

- 13.(1) The Ombudsman shall submit to the President a report of every investigation it has conducted which shall contain -
- (a) a summary of the evidence taken together with the conclusions and recommendations;
 - (b) a statement of any action that has been taken by any person whose conduct is under investigation or by the department or authority of which such person is a member, to correct or ameliorate any conduct, procedure, act or omission that is adversely commented upon in the report;
 - (c) where any person has suffered loss or injury as a result of any alleged misconduct, maladministration or abuse of office or authority by any person whose conduct is under investigation, the Ombudsman may in his or her recommendations state that compensation should be paid to the person who has suffered such loss or injury or to any dependent of such person, and shall determine the sum which it recommends as compensation.

Enforcement and notification

14. (1) The President may, on receipt of the report of the Ombudsman on any investigation conducted by him or her, or during the continuance of any such investigation, take such decision in respect of the matter investigated or being investigated into by the Ombudsman as the President deems fit.
- (2) When the Ombudsman receives such decision he or she shall notify the complainant and the person complaint against whom the complaint or allegation was made.

Report National Assembly to

15. (1) The Ombudsman shall submit to the National Assembly an annual report of his or her operations.
- (2) The annual report shall be submitted within six months of the following year.
- (3) A report under this section shall not disclose the identity or contain any statement which may point to the identity of any person into whose conduct an investigation is made.

Staff of Ombudsman

16. The Ombudsman shall employ such staff as he or she shall determine, who shall become public officers.

Finality of Ombudsman's acts

17. (1) No investigation, proceedings, process or report of the Ombudsman shall be held bad for any error or irregularity of form or be challenged, reviewed, quashed or called into question in any court save on the

ground of lack of jurisdiction.

(2) The High Court shall be the final court of appeal in all matters in which the Ombudsman is a party.

**immunity of
Ombudsman and
members of staff
of office of
Ombudsman**

18. (1) No proceedings, civil or criminal, shall lie against any Ombudsman or member of staff of the Ombudsman for anything done in good faith in the course of the exercise of his or her official functions.

(2) Subject to the provisions of this Act, the Ombudsman or member of staff of the office of the Ombudsman shall not be called to give evidence before any court or tribunal in respect of any information received in the exercise of official functions.

Expenditure

19. (1) All expenditure in connection with the office of the Ombudsman shall be charged on the Consolidated Revenue Fund and shall be paid at the beginning of each financial year.

(2) A person summoned as a witness under this Act may on the order of the Ombudsman be paid such allowance as the Ombudsman may prescribe.

Offences

20. (1) If any person who -

(a) being a witness before the Ombudsman without lawful excuse refuses to be sworn or affirmed, or having been sworn or affirmed refuses to answer fully and satisfactorily any question lawfully put;

(b) having been sworn or affirmed knowingly gives false testimony touching any matter which is material to any question under investigation;

(c) intentionally insults, interrupts or otherwise obstructs the Ombudsman or member of staff of the Ombudsman in the performance of functions under this Act;

(d) intentionally disobeys any order made under section 6; commits an offence and shall be liable to the same penalty as any person who commits a like offence in relation to a court.

**Power to make
rules**

21. (1) The Ombudsman may make rules for the better carrying into effect of this Act and, without prejudice to the generality of the foregoing, for any of the following matters:

(a) prescribing terms in respect of proceedings before the Ombudsman;

(b) prescribing the duties of officers and other persons appointed under this Act; and

(c) prescribing the procedure for conducting investigations.

Passed in the National Assembly this Fourth day of July, in the year of our Lord one thousand Nine hundred and Ninety-Seven.