

6th
ANNUAL
REPORT
2014



THE COMPLAINTS COMMISSION

Dedicated to Raising Service Standards in the Public Sector

TABLE OF CONTENTS

2	TRANSMISSION LETTER
3	FOREWORD
5	ROLE AND FUNCTIONS
6	MISSION STATEMENT
7	YEAR IN REVIEW
8	SPECIAL REPORTS
8	ANNUAL REPORT
9	SAMPLE CASES
13	OTHER ACTIVITIES
13	OFFICE ANNIVERSARIES
14	OUTREACH
14	SOCIAL MEDIA
15	REGIONAL & INTERNATIONAL
15	CAYMAN'S 10TH ANNIVERSARY
16	PRESENTATIONS
17	MEETINGS
18	COMPLAINTS HANDLING IN THE PUBLIC SECTOR
19	STAFF
20	APPENDICES



The Complaints Commission

P.O. Box 4628, Road Town, Tortola VG1110
Email: complaints@ombudsman.vg
Email: complaints@gov.vg
www.ombudsman.vg
Tel: (284) 468 - 5123
Fax: (284) 468 - 5082

Ref. No: A1/13

30 June, 2015

His Excellency the Governor
Mr. John S. Duncun OBE
Governor's Office
Road Town, TORTOLA
VIRGIN ISLANDS

Dear Governor:

In accordance with Section 24(1) (a) of the Complaints Commissioner Act 2003, I have the honour to furnish you with the sixth annual report of the activities of the Office of the Complaints Commissioner with the request that you cause it to be laid before the House of Assembly within three months.

This report is for the year ending 31st December 2014.

Yours sincerely,

Elton Georges CMG, OBE
Complaints Commissioner

The main surprise of the year is that I was there at the end of it, having been on standby since February to hand over to a successor. At some point, we began to ignore the ongoing process of temporary short extensions of tenure and to concentrate on work alone. Since I did not expect to be here, for this foreword I am taking the lazy way out and reprinting excerpts from the Foreword to the first report. It remains, oddly, rather relevant.

“To have been appointed the first Ombudsman (or “Complaints Commissioner”, as the British drafters of the Constitution preferred to call it) was an almost incredible honour and gift, but a humbling one. It followed a career of public service at the senior levels of government administration that was both a help and a drawback. It was a help in that I came to the Commission with a thorough knowledge of government operations and of many of the personalities; and an easy familiarity with the laws of the Territory, including the Constitution. It was a drawback in that I had to be on guard against making too many allowances for the officials complained against out of intimate knowledge of how the pressures of day to day administration can derail even the best of intentions. It was humbling in that the work brought me face to face with the realisation that I had in the past been also, in some cases, guilty of maladministration and that any of us can slip into it without constant due care and attention.

“It has been an interesting year. My long public service notwithstanding I was still surprised at some of the things that complainants experienced and the administrative gaps that investigations turned up. In spite of ten years, more or less, of public service reform (sometimes called ‘development’), and notwithstanding the existence of many model public servants, the prevailing public service culture is one in which the tendency to shabby treatment of people appears to be still too much ingrained. This is a major challenge. This attitude or conduct derives from various causes: carelessness, ignorance, laziness or prejudice. Some of it derives from senior officers who mean well greatly underestimating the work and determination involved in achieving and maintaining high standards of administration – in keeping to the laudable undertakings published in their service charters. To be fair, overburdened public officers also sometimes, perhaps not always consciously, choose the priority of dealing with other pressing matters and letting the quality of service delivery slip. A general strong aversion to accountability, openness and transparency, from the level of the political directorate down, adds to this challenge.

“And yet, we encounter sterling public officers regularly. There are so many who, as Dr. Karl Dawson, President of the Community College, said in an address two years ago, “... try to give the best possible service both to external and internal customers because they deeply feel that it is the right thing to do... They cannot bear to see someone standing at a counter unattended, to hear a telephone ringing unanswered, to know that a query or request has not been attended to or to know that an inefficient or ineffective process is continued in their area.” In many cases such officers are let down by organizational deficiencies over which they have little control, by outdated legislation and processes, by crushing work overload. But there are also well run departments.

“While I stressed at the outset, and have continued to stress, that I see the Complaints Commissioner’s role as assisting in raising standards in public administration – quality assurance, as one perceptive officer put it - it isn’t always clear how one measures that impact. The main measure of success must still be how well persons who seek help

with their matters feel that they have been served and how those who might be the subject of investigations view the fairness and professionalism of the office.

“A discouraging aspect of the year that is dealt with in the report is the lack of response or negative response to the recommendations made. Time will tell whether this is a function of the newness of the office or of determined resistance on the part of the executive. I hope it is the former and that we will be able to say in the not too distant future as the Ombudsman of Ontario could state in his most recent annual report that “...even in the most contentious cases government has not only accepted our recommendations but have gone on to praise and to champion them.” We do not expect agreement with every conclusion and recommendation, but when agencies do not even see the need to respond or argue their positions it is a symptom of a serious problem.”

Sadly, the low level of response to recommendations remained a recurring decimal. The Year in Review will show 2014 to have been, on the whole, a relatively quiet year at the Commission. But a great deal of the work that we do – loosely termed advice - never makes it into the records or the statistics. There were “points of light”, as indicated in the resolution of several cases, and in occurrences elsewhere in Government. I was very happy to welcome the announcement last year March of the appointment of the first chairman of the Labour Arbitration Tribunal in the person of the very capable Mr. Paul Dennis, QC, and the further announcement in November of the launching of the Tribunal. Some news stories recalled the Commission’s role in leading the call for the Government to put in place that body as a means of stemming continuing injustice to workers caught up in employment disputes. Indications are that the Tribunal has started work and the public will soon be hearing more about it.

At the end of the year the process of selecting a successor was still continuing and my tenure was extended to end of February.

Elton Georges CMG, OBE
Complains Commissioner

ROLE AND FUNCTIONS

The office of Complaints Commissioner (called, for convenience, the Complaints Commission) was established in the Constitution in the year 2000 and the Legislative Council passed the Complaint Commissioner Act in 2003. The first Commissioner was appointed in February 2009 and the office officially opened to the public on 3rd March of that year.

The Commissioner's main role is to receive complaints from any person who has a grievance about how he or she was treated by a Government official or a department of Government or by a statutory body; to investigate those complaints thoroughly, which also means impartially; and to issue a report with findings and also with recommendations if these are indicated.

Any member of the House of Assembly can request the Commissioner to investigate a matter "on the ground that a person or body of persons specified in the request has, or may have, suffered an injustice as a result of maladministration".

The Commissioner will have to assess all complaints and requests to see if they are allowed under the Complaints Commissioner Act, 2003 and whether it is practicable otherwise to investigate them. He or she would have to use his/her discretion. Having determined that a complaint should be investigated, the Commissioner has the tools at his disposal to ensure the success of the investigation. These include the powers of a court to summon witnesses and compel testimony under oath, and compel the production of papers. These are powers of last resort to be used only if necessary. Ministers and the Governor are exempt from the exercise of these powers.

The Commissioner may also investigate matters of his or her own volition if he or she considers that this ought to be done "on the ground that some person or body of persons has, or may have, sustained an injustice as a result of maladministration."

Having investigated, the only power the Commissioner then has is to report fully to the department or agency concerned and, if warranted, make recommendations to right a wrong. That report must be copied to the Governor and each member of Cabinet. If the department or statutory body does not comply with recommendations within a reasonable time, the Commissioner then can send a special report on the matter to be laid on the table at the House of Assembly. In order for the Commissioner to be seen as effective, therefore, it is of utmost importance that the Governor and Cabinet take firm positions that those recommendations are to be respected and followed. Otherwise, officers of Government agencies may quickly conclude that the Commissioner is a "paper tiger" and relegate his or her recommendations accordingly. The Commissioner must also, of course, use persuasion and encouragement to achieve the desired objectives of compliance.

MISSION STATEMENT

Our mission is to receive and deal properly with complaints against government agencies according to law, including carrying out thorough, impartial investigation of eligible complaints and recommending corrective action where such is indicated.



Our values are: Independence; Impartiality; Integrity; Accessibility; Professionalism; Courage in investigating matters, in stating findings and in making recommendations.

COMPLAINTS, INVESTIGATIONS, REPORTS

Last year we recorded that the number of complaints coming through our websites and social media had been modest but we quietly reached the milestone of 500 total gross inquiries/approaches in January this year. With our website being launched in early 2011 this contributed in first going over 100 that year, plus better record keeping! Our complaint management system too had been installed in January of the same year (2011) so it is quite possible that some inquiries, and so on were ‘lost’ before.

We brought forward and completed two active investigations from 2013, one against Department of Labour (see Sample Cases), the other against the BVI Health Services Authority. We issued 8 new **notices of investigation**, of which we completed three with issued reports. The others were worked to resolutions short of formal investigation. We **referred** fifteen complaints formally to other agencies with fair success as to resolution, but were monitoring 5 of the cases into the new year. Types of maladministration alleged included inordinate delay; unfair and unethical hiring practices; discourtesy; unfair deprivation of livelihood; failure to discharge lawful responsibility. One complaint was proposed for mediation under the Complaints Commissioner Act, section 9, but the agency involved, the Ministry of Education, opted to settle it directly. The Commissioner proceeded with an investigation in the public interest pursuant to section 7 of the Act, notwithstanding that the complainant, frustrated with the process at that point (the complaint was initially referred to the Permanent Secretary) declined to cooperate further.

STATUS OF COMPLAINTS JANUARY - DECEMBER 2014

Investigations Completed	OWN Motions	Referred	Declined	Withdrawn	Inquiries
5	2	6	6	1	47

OWN MOTION INVESTIGATIONS

The Commissioner is empowered to conduct investigations into actions of government departments or governmental bodies on his own initiative if he considers that any person or body of persons had or may have sustained injustice from maladministration in relation to those matters.

At year’s end there were two (2) Own Motion investigations underway, one of which had been brought forward from 2013 - **Noise Nuisance Control**. The office continued this investigation on and off through 2014 in an effort to bring it to a close. The second was an investigation launched in September to look into the policies, procedures and practices attendant upon **the encroachment by Government on private land for public works**, notably road building. A growing number of complaints of inability to bring closure to such cases prompted this inquiry. It was carried forward into 2015.

Workplace Health and Safety: During the year we also launched two other systemic investigations. One was aimed at **the regulation by the Labour Department of health and safety in the workplace**, for which Part IX of the Labour Code has very extensive provisions. We suspended this investigation in August and sent the Department’s preliminary response and our findings sent for the Minister’s attention. They included: **the Department had only one inspector for several hundred of workplaces throughout the Territory, so that one was understandably overwhelmed; the Department was faced with the difficulty that the Government, as employer, was one of the worst offenders as regards healthy and safe workplaces; and the Minister had made no regulations relating to specific industries and establishing standards, to supplement the very general provisions of the Code and thus guide and facilitate implementation.** We spoke to a consultant in Trinidad who was engaged by the Ministry to work on the draft regulations; he said they were just about complete but delayed by “administrative issues”, which

he hoped to have sorted out soon. (At the time of writing, the position relating to these regulations is uncertain and funding for additional staff for the unit is still being sought.) The absence of even the most basic infrastructure to enforce the provisions in the Code was so glaring that a detailed investigation was, in our view, unwarranted. But the Commissioner remains concerned that employees in many establishments continue to suffer the injustice of unhealthy work situations.

Registration of Nurses and Midwives: The second inquiry commenced in July when the Commissioner took up with the Ministry for Health a concern that the body responsible for registering nurses, the **Nurses and Midwives Council**, had not been properly constituted or functioning for some time, while nurses were being registered in a procedure that was irregular in terms of the Act. This had led to worries that healthcare could suffer and the health of persons in medical facilities be put at risk. The Ministry reacted positively to the recommendations offered in late August that the Council be properly constituted at all times and be given the requisite administrative support to discharge its functions according to law. It also published, apparently for the first time in recent years, the list of registered nurses and midwives, publication of which in the official gazette is required by law to be done every 3 months. There was therefore no need to proceed further with the investigation.

SPECIAL REPORTS

Special reports are laid in the House of Assembly when agencies which have received investigation reports with recommendations fail to respond adequately within a reasonable time. **No special reports were laid before the House during the year.** A total of 12 had been laid between 2009 and 2014. Special Report No. 13, on a complaint against The BVI Health Services Authority, sent to the Governor in June of 2014 had still not reached the House at year's end, in spite of reminders. Finally, the House has, regrettably, still not moved to establish a committee that would examine such reports and report back to the body.



ANNUAL REPORT 2013

We completed the 5th Annual Report, for the year ended 31st December 2013 and submitted it to the Governor on 16th June, 2014. At his invitation the Commissioner was present for its discussion in Cabinet on 23rd July, and it was laid before the House of Assembly by the Premier at its sitting on 11th September. As mentioned more than once, no Member of the House has at any time queried any issue or activity documented in those reports.

SAMPLE CASES

In July, Ms. BQ, a former pageant winning queen, complained that the Ministry of Education was unilaterally changing the terms of the most valuable prize that the winner had been promised, namely, a four year university scholarship. On attempting to collect on the prize two years later she heard from a Ministry official that an error had been made and the value of the prize was in fact \$20,000 total. She was having difficulty getting an explanation of this discrepancy and was becoming desperate, since she needed to commit financially to the university that had accepted her to commence studies in the Fall semester.

The Commission asked the Ministry and the Festival and Fairs Committee (FFC) about the matter. It turned out that the Permanent Secretary had 2 weeks before started an investigation based on a telephone conversation with the complainant. Findings to date were that the Committee, which put on the pageant, had never officially, until recently after the investigation started, informed the Ministry who had won and had also not attached to the winner's contract the right document, which would have stated that the prize was a four year undergraduate scholarship or \$20,000 towards postgraduate studies. These errors and oversights led to the dispute. The matter now had to be put to Cabinet, which it was in due course.

Later in August Cabinet decided to award BQ a four year scholarship at a maximum contribution of \$18,000 per annum, with the usual terms and conditions that attach to Government scholarships. I found no maladministration on the part of the Ministry except a general failure of oversight of the Committee's activities. The Ministry would clearly in future run a tighter ship, including seeing to it that the FFC documentation on prize descriptions/commitments was accurate and complete, and communication of information on winners and their due is timely. (Prize winners are also well advised to acknowledge in writing the acceptance of prizes offered, describing each, and in the case of scholarships expressing intentions as to proposed time to take up the award.)

Status: Resolved



This is to inform you that I received my retirement letter on January 30th. I want to take this opportunity to thank you for all your support. I am forever grateful for the part you played in bringing about closure to this matter.

*Once again thank you.
Regards.*



LABOUR LOSES THE PLOT

Mr. DL had in early January filed with the Labour Commissioner a dispute claiming unfair dismissal in early December, without notice, by his employer on the basis of what he insisted was a trumped up, false charge of stealing hotel property. The employer had not reported the alleged theft to the police. DL also alleged that the employer had withdrawn from his bank account the two weeks' pay that had been awarded in lieu of notice, and that the employer had continued to deduct from his wages health insurance premiums for months after the employer had cancelled the policy.

 *Thanks again for the important role your office played in resolving this matter. Give my regards and thanks to Mr. Georges.* 

DL filed a complaint at the Commission in June, that no progress had been made in settling the dispute and he could get no definite information from the Labour Department, despite having called and visited some 15 times. Our attempts to get the Department to comply with the law so as to move this matter toward resolution were unsuccessful, so we proceeded later to investigate formally.

The Labour Code requires the Labour Commissioner to attempt to settle disputes by mutual agreement, but if she is unable to do so within 30 days, or such longer period as the parties agree, she must refer the matter to the Minister with her report. We found that the Labour Commissioner had failed to follow the law, not having referred the dispute to the Minister some 11 months (by the time of the report) after failing to settle it. Her excuses for doing so were without merit. The maladministration was resulting in continuing injustice to Mr. DL. We recommended immediate referral in accordance with the law and that the Minister, in view of the elapsed time should in the interest of justice immediately refer the matter to the Labour Arbitration Tribunal for definitive settlement. Further, that the Labour Commissioner should apologise unreservedly to DL for her failure to deal with the dispute lawfully for so long thereby causing him undue distress, as he waited for the opportunity to clear his name. At the time of writing of this report, the Labour Commissioner had only recently referred the case to the Minister, who had subsequently informed DL that he was referring it to the Tribunal. DL is still awaiting the call from the Tribunal, 18 months after he claimed unfair dismissal. The Commissioner has refused to apologise.

Systemic recommendations included that the Labour Commissioner should institute a system to track progress on dispute resolution cases; should ensure thorough understanding by the parties at the outset of the resolution procedures including time frames; and that the Ministry and Human Resources Department move quickly to fill the two vacant Dispute Officer positions with competent staff. Part of the problem was that there was just one officer to deal with dozens of disputes. At writing, one position has been filled.

The evident disregard for law and for professional handling of departmental responsibilities is discouraging, to say the least. The private sector employee, as the usually weaker and more insecure party, tends to suffer most from these official failings.

Status: Still unresolved.

PARTITIONING TOO LONG DELAYED?

Frisbee could not understand why the Land Registry was insisting that Ms. CD, his ailing, aged cousin, who was the caregiver to her disabled son, should come over from St. Thomas to appear in person before the Registrar prior to the processing of her application for the partitioning and transfer of some land. All of the requisite notarized documents had been filed in March, applications had been duly published in the Gazette and newspaper, and yet here it was October with no action; and requests for explanation went unanswered. Frisbee was all the more mystified because he had put similar transactions through without difficulty or delay several times before.

Referral of the complaint to the Chief Registrar of Lands at once brought forth a letter from the Registry, which explained that, on the basis of a telephone interview with her (date not given), the Registry was satisfied of Ms. CD's inability to travel but that she had denied any knowledge of the application or the documents submitted. The papers were therefore returned to Frisbee, who was left flabbergasted. He pointed out the obvious: that if this were really the position of the Land Registry, the matter should have been referred to the police for investigation of possible fraud.

Our continued engagement with the Chief Registrar, however, resulted in her going to St. Thomas to meet with Ms. CD in November, which cleared up the doubts and placed the application back on track, with the department's due diligence concerns fully removed. Frisbee was "extremely grateful" for the role the Chief Registrar and our office had played. It was still to take several exchanges of emails and telephone calls, however, stretched out by the Chief Registrar's leave and interposition of the Christmas holidays, for the partitioning documents to be completed and transfers, including to Frisbee, to be enabled in early 2015.

Status: Eventually resolved.

LABOUR SEES THE LIGHT...AT LONG LAST

From a wheelchair in her native Jamaica, Rhoda complained in September 2013, via our Facebook page, that her complaint to the Department of Labour in August 2012 alleging summary dismissal from her employment of 8 years as administrative assistant without due benefits, severance pay and airfare back to her country, had not been settled.

The investigation found that indeed the Department had not handled the dispute in accordance with the law. The Labour Commissioner and Disputes Officer had been too deferent to the employer/owner (who happened to be a public figure, and so had unduly delayed prosecution of the dispute settlement process. Rhoda had become frustrated at many unreturned calls inquiring after progress, although it seemed that the messages she left seldom reached the Disputes Officer. Further, an unfortunate error in recording a telephone number meant that the Officer's attempts to send messages through a relative did not succeed. In any case the only information the Officer had for her was that he had been unable to speak to the employer; which he delivered at their only meeting, which took place in December 2012. On 15th February 2013 Rhoda, in a delicate state of physical and financial health, had to leave the Territory permanently.

To sum up, we found that the Department had comprehensively breached the standard laid down in the Labour Code of acting "expeditiously" and "without undue delay" and had also breached its Service Charter commitments. Our report, issued in April 2014, recommended immediate genuine investigation of Rhoda's complaint and a serious attempt at settling it, failing which, it should be referred to the Minister after 30 days; and an apology to her for the Department's failings and the unnecessary distress it caused. The Department went to work, and in June was able to communicate recovery of a severance pay settlement for her in the amount of \$4,650, a useful sum that she clearly would not have received had we not picked up that Facebook post. Unfortunately, no apology was included in the Labour Commissioner's letter informing of the settlement.

Status: Resolved

OTHER ACTIVITIES

OFFICE ANNIVERSARY

This year was a year of celebration and accomplishment for the Complaints Commission, in 'fives'. In February 2014 we observed the 5th anniversary of the Complaints Commissioner Act, 2003 coming into force and of the appointment of the first Commissioner. The 3rd of March 2009 marked the official opening of the office and filing of the first complaint. After 3 failed attempts, on 08th May 2014 we hosted an anniversary reception to mark the event at Maria's by the Sea. The reception was well attended by well-wishers and dignitaries including two ministers of Government and His Excellency the Governor, Mr. William Boyd McCleary, who said, in reference to the Commissioner:

"I would like to put on public record my thanks to him for the work that he has done in that period of setting up the office, and establishing the principle of handling complaints effectively. I am conscious that the very existence of a Complaints Commission has meant that people now have recourse in a way they didn't previously, to now actually try and redress their grievances, to try and address complaints."

Premier Dr. The Honourable D. Orlando Smith was also present and thanked the Commissioner for work done in the office thus far and seeing the work of the Commission continue. The Premier compared the accountability function of the Complaints Commission to that of the Public Accounts Committee of the House of Assembly in terms of keeping Government in check and said that the Commission had been "effective in its work".

Our very first complainant, Ms. Muriel Simon, also attended on invitation and made brief remarks, emphasising how comforting it was to have someone to go to – to listen to her and take her case seriously - at that difficult time in February 2009 when she was facing having to leave the Territory at short notice. The guests also heard from the then Head of Department that was the "target" of that first complaint (and several more!), the former Chief Immigration Officer, Mr. D. Jennings, who spoke frankly of the difficulty of having to deal with being put under the microscope, but said he also came to appreciate that the Ombudsman had a necessary role to play.



(Photos, from top: Governor Boyd McCleary; Premier Orlando Smith; and Ms. Muriel Simon, first complainant.)

OUTREACH

The emphasis on getting out the word about the Commission to the public on the sister islands as well as on Tortola continued. We were satisfied that through these efforts that the wider population was becoming more aware of the Commission's existence.

- We continued to run spot advertising on our local radio stations beginning in January 2014.
- On 2nd September we held the usual press conference to launch the 5th Annual Report of the Commission (for the year 2013) and also to look backward at achievements over the past 5 1/2 years.

SOCIAL MEDIA

Phoenix Caribbean continues to monitor and post on all the Commission's social media sites all news relevant networks. The Complaints Commission commenced a social media program in 2013 to build a greater awareness of the commission. This awareness building includes:

- Ensuring citizens of the Territory are aware of the commission and its location
- Ensuring the services available from the commission are made clear to potential complainants
- Ensuring the process for complaints is visible and straightforward for potential complainants
- Communicating achievements, successes and activities of the commission that have resulted in an improvement to government services and the Territory.

To enable this awareness posting the commission has adopted the social media platforms Facebook and Twitter. The former has over 1 billion users worldwide, the latter 750 million, and they are recognised as the primary online communications media presently available. Moreover, they have widespread adoption within the territory, and therefore represent a highly cost effective means of communicating our ongoing awareness campaign. Followers of our pages on both platforms continue to grow steadily, and postings are made at least once a week. As well as communicating our key messages, the social media also assist in driving traffic to our website, thereby further increasing awareness of the online resources available to citizens.

REGIONAL AND INTERNATIONAL

The Complaints Commission remained a member of the Caribbean Ombudsman Association (CAROA), the Ombudsman Association and the International Ombudsman Institute (IOI).

In February, the Commissioner travelled on short notice to Sint Maarten to attend an emergency meeting of the CAROA Council, of which he is a member. Discussions were underway about the forming of a foundation for the organization.

The Commissioner participated in a webcast of International Ombudsman Institute and the World Bank round table discussion on the Ombudsman's role in promoting good governance and effective service delivery through open government.

CAYMAN'S 10TH ANNIVERSARY

The Commissioner took some time off on his very brief holiday in July to attend and bring congratulatory remarks at the Cayman Islands' Complaint Commissioner's Office 10th Anniversary celebration, at the invitation of Commissioner Nicola Williams, a fellow member of the CAROA Council.



Figure 1 Curacao Ombudsman Mrs. Alba Martin seen here signing deed for forming of CAROA



PRESENTATIONS

We also continued to educate Government agencies on the functions and operational methods of the Commission. In particular, the Commissioner gave special presentations to:

- Heads of selected public authorities on 24th June to set out more fully the role, functions and manner of operating of this office (now in its 5th year of operation). The content covered what the Constitution and the Complaints Commissioner Act provide, and also indicate by cases how the office has sought to carry out its mandate. The event was well attended and the following agencies were represented: Public Assistance Committee; Social Security Board; National Bank of the Virgin Islands; Town and Country Planning Authority; Public Works Department Building Authority; National Parks Trust, Survey Board, Central Tenders Board and the Telecommunication Regulatory Commission. The event was held at the Training Division's conference room and words of commendation were expressed to the department specifically Mr. Kareel Richards and Ms. Alicia John for the excellent service provided to us.
- By invitation from the National Parks Trust, the Assistant Complaints Commissioner facilitated two sessions on 12th and 19th June titled 'Complaint Management' and by extension 'Creating a good complaints policy'. The event was hosted by the Education and Outreach department to address the customer service and leadership development needs of the National Parks Trust.
- Our Senior Administrative Officer represented the office at the Farmer's Week activities in Virgin Gorda (13 February). No approaches were made by the Virgin Gorda community in the way of complaints, unlike in 2013 .

MEETINGS WITH OFFICIALS AND AGENCIES

The Commissioner entertained courtesy calls with several Heads of Government to include:

- Courtesy call on Permanent Secretary in the Premier's Office – Mr. Brodrick Penn (21 January, 2014)
Mr. David Foote the new Superintendent at Her Majesty's Prison as a follow up to our last visit there in July 2013. (29th January)
- Our SAO represented office at the Virgin Gorda Farmer's week (13th February)
Visit from Community Police Officer PC Curtis Roberts (5th March)
- Courtesy call by New Strategic Manager Michelle Todman (17th March)
- Acting Human Resources Director Michele Donovan Stevens and Shavon Henley HR Manager to discuss VI laws (24th March)
- Courtesy call from Joseph Abbot-Smith (Deputy Secretary in Ministry of Natural Resources & Labour on 2 year Secondment from the National Parks Trust) accompanied by visiting consultant Esther Wolfs.(14th May)
- Courtesy call on Acting Permanent Secretary (Ministry of Communications and Works) Mr. Anthony Mc Master. (29th May)
- Attended 2014 Planning Day activities for Heads of Departments of the Governor's Group and the Constitutionally Established Departments. (3rd June)
- Our SAO and office intern Tevern David held office hours on Virgin Gorda 9:00am – 1:00pm (26th June)

As was the norm the Commissioner on a quarterly basis would meet regularly with the Governor and Premier to have meaningful exchange about the office and complaints and ways to improve on compliance with recommendations made and improve overall service delivery. Thus far for the year the Commissioner has managed to have only one such meeting with the Governor on 28th January 2014 it would appear due to schedule challenges on the side of the Governor and the Premier.

COMPLAINTS HANDLING WITHIN THE PUBLIC SECTOR

In the 2013 report we noted the ‘soft launch’ of the Government’s ICCP (Internal Complaints Procedures Programme) and flagged up some concerns about the programme, promising to carry out more in-depth survey of its operation. In the event, we were not able to achieve this goal, but informal soundings during 2014 continued to give cause to wonder how well the programme was going. The Deputy Governor’s Office reported, however, that a ‘mystery shoppers’ exercise

“...highlighted pockets of excellent customer service along with areas where there is a need for improvement. Regarding the Complaints Programme, there was general knowledge about the Programme but the feedback highlighted the need for further in depth training about the true intent of the Programme with all members of staff and not just the trained Customer Relations Officers. While specifically, the Customer Relations Officers were familiar with the programme and their roles, the exercise revealed a need for this knowledge to be cascaded throughout the organisation.”

The Office signaled the development of “a comprehensive service delivery blueprint” in 2015 that would “target all frontline officers and ensure that there is consistency in the delivery of frontline customer service while handling complaints”. The Commission will continue to refer appropriate complaints to the departments, monitor how they are dealt with and report. At present, we find the need to become re-involved in referred matters more than 60% of the time, on account of delays and neglect. We would like to see this reduced to 20% during 2015.

We do not have a clear sense of how complaints are dealt with in public authorities. Of those with whom the Commission has engaged, we know that the BVI Health Services Authority had a complaints policy and procedure and the Telecommunications Regulatory Commission has published Complaints Regulations (under the long name Telecommunications Code (Part 4) (Investigation of Complaints by Consumers, Facilitation of Relief and Resolution of Related Disputes) Procedures, 2010). We have urged other statutory bodies to draw up and publish, for their customers, complaints policies and procedures. There are few, if any, of these in evidence on websites or at front desks.

All agencies are also urged to list the Complaints Commission as the last link in the chain for complaints about maladministration.

There were no changes to our staff complement of 3. Monique Hodge-Bell was Assistant Commissioner (since August, 2009) and Beverley Sergeant, Senior Administrative Officer (since December, 2010). In November 2014 **Noreen Callwood-Lewis**, Employee Assistance Programme Counsellor II, joined the Commission on a job rotation assignment for a period of 3 months in the first instance. Mrs. Lewis was fully engaged in the work of the Commission, accepting and reviewing complaints, liaising with agencies and officials to achieve resolutions, assisting with investigations, writing reports and monitoring compliance.

The office took on once again summer interns, Miss Tavern David and Kimberley Herbert, starting late June through 31st August 2014. The presence of the interns relieves the office on undue strain experienced from time to time and allows the officers to take much needed vacation leave which has been a challenge. The interns performed useful work as complaint intake officers, receptionists and as records and research officers.

The staff attended several training sessions including:

- Our Senior Administrative Officer Beverley Sergeant attended finance training conducted by the Financial Planning Officer (16th July)
- The Assistant Complaints Commissioner attended the GO BVI Financial Services Training also Mediation Training sponsored by JEDI – Eastern Caribbean Court - 22-26 September, 2014

COMPLAINTS COMMISSIONER
June 2015

APPENDICES

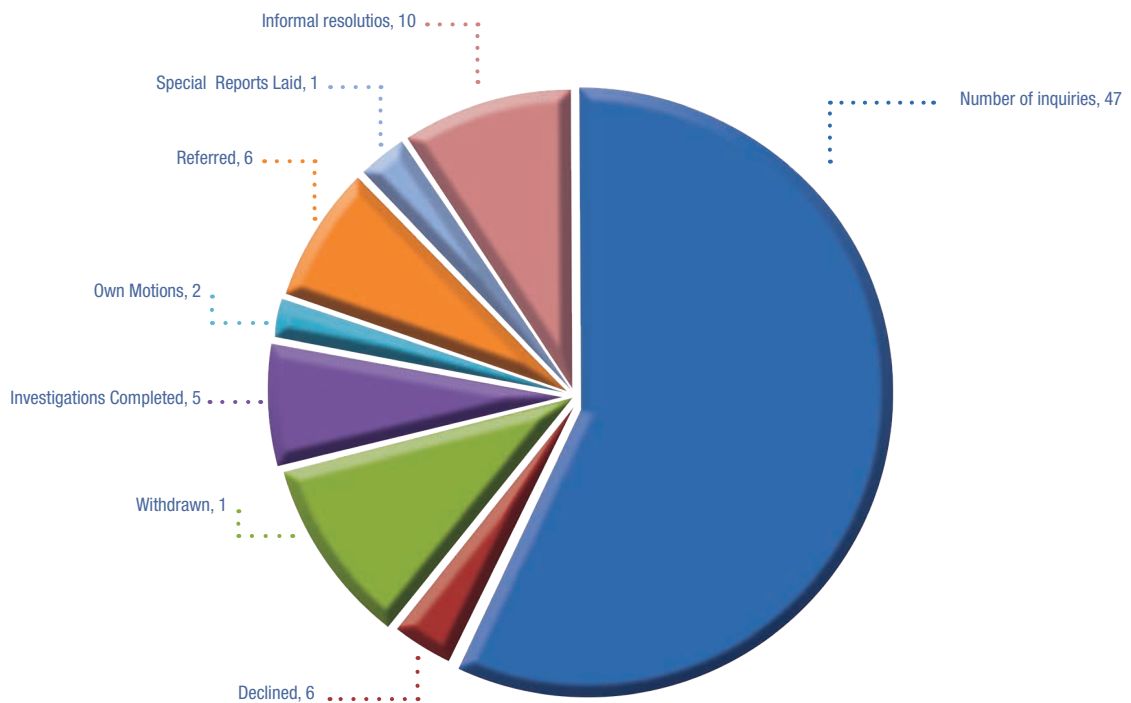
1. BASIC SUMMARY OF COMPLAINTS
2. GOVERNOR'S GROUP PLANNING DAY 2014

APPENDIX 1

BASIC SUMMARY OF COMPLAINTS

SUMMARY OF COMPLAINTS 2014

Investigations Completed	47
Number Complaints Referred	6
Number of Declined Complaints	6
Informal Resolution	10
Reports Submitted/Investigations Completed	5
Own Motions	2
Special Reports Laid	1
Complaints Withdrawn	1



INTRODUCTION

It is not at all clear how the Complaints Commission fits within this exercise. We have never been invited before, and I was hoping to learn the rationale for our inclusion on this occasion. As I understand it, the main purpose of Planning Day is to create or enhance an esprit-de-corps among the agencies that make up the Governor's Group so that the several units will catch some vision of a shared group enterprise within the vast wider public service. By laying out each other's plans, hopes, dreams, frustrations and failures (euphemistically called challenges) and submitting to questions and, yes, challenges, from others, I understand it to be hoped that understanding will increase and that group members will all be that much more inclined to support each other's programmes, leading to overall service improvement in the public interest.

The Complaints Commission is hardly a unit in the same sense as are most of the others represented here today, although I understand why we are broadly lumped in a sector labeled "Governance". We have a mandate clearly defined in law that in some ways might be the envy of many other departments, which have multiple duties, sometimes conflicting and complex, large staffs and problems of coordination and priority setting. Our task is simple, on the surface: to deal with complaints that come to us that meet certain conditions. On the most reductionist view, if no complaints come, we do nothing, except to show up and be available. That would be irresponsible. So we go beyond the law and promote the existence and the purpose of the office. In doing so, we may seem to be inviting complaints, encouraging 'negative' reactions in persons who might otherwise just accept a certain amount of rough treatment as their due. We also are not entirely passive about the recommendations that we make, chasing up the agencies to persuade or 'shame' them into action. We often fail.

The nature of our work does make it difficult to plan in the same way as many of you do. So what is our "strategy" for the next 5 years including 2014?

TOTAL CONTACTS/INQUIRIES 2009-2013

	2009	2010	2011	2012	2013	
	49	72	135	117	115	

STRATEGY 2014-2018

CONTINUE TO DO WHAT WE ARE DOING, BETTER AS FAR AS IS POSSIBLE

- Sharpen skills in deciding when to investigate, what to investigate as opposed to referring, seeking quick informal resolutions, promoting mediation, declining.
- Reduce average investigation time to 3 months for complaints, 9 for large systemic own motion investigations.
- Keep public service' feet to fire on professional service delivery, getting it right, putting charters into practice.
- Keep the office in the public eye in order to ensure that as many as possible of those who need its services know it is there and how to contact it.
- Promote the positive effects of complaining and of effective complaints management, of learning lessons and building trust; educate the public in responsible and effective complaining.
- Push for enactment of Freedom of Information Act and regulations, and the widening of the Complaints Commissioner's role to include human rights commission (with adequate budget).
- Raise the Commission's profile at H M Prison (2014-2015)
- Continue efforts to help the Prison authorities to institute a viable and effective internal complaints system for inmates.
- Launch information programmes (live presentations, written material) among prisoners.

1. Increase moral suasion effectiveness

- Hold more informal one-on-one meetings with Ministers, Permanent Secretaries and other movers and shakers.
- Intensify efforts to engage Members of House in communication.
- Follow up on implementation of recommendations, especially systemic ones, more rigourously.

2. Propose reasonable amendments to the Act to enable the Commissioner to better serve complainants.

3. Identify sources of funding outside of Government.

CARIBBEAN AND NORTH ATLANTIC TERRITORIES
The Virgin Islands Constitution Order 2007

Made - - - - 13th June 2007

Laid before Parliament 14th June 2007

Coming into force in accordance with section 1(2)

CHAPTER 9
THE COMPLAINTS COMMISSIONER AND REGISTER OF INTERESTS**The Complaints Commissioner**

110. (1) There shall be a Complaints Commissioner for the Virgin Islands.
- (2) The Complaints Commissioner shall be appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition, by instrument under the public seal.
- (3) No person shall be qualified to be appointed as Complaints Commissioner if he or she is or has been within the preceding three years—
- (a) an elected member of the House of Assembly; or
 - (b) the holder of any office in any political party.
- (4) The office of the Complaints Commissioner shall become vacant—
- (a) at the expiration of the period specified in the instrument by which he or she was appointed;
 - (b) if he or she resigns office by writing under his or her hand addressed to the Governor;
 - (c) if he or she becomes an elected member of the House of Assembly or the holder of any office in any political party; or
 - (d) if the Governor, acting in his or her discretion, directs that he or she shall be removed from office for inability to discharge the functions of the office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, or for contravention of subsection (5).
- (5) Subject to such exceptions as the Governor, acting in his or her discretion, may authorise by directions in writing, the Complaints Commissioner shall not hold any other office of emolument either in the public service or otherwise nor engage in any occupation for reward other than the duties of his or her office.

Functions of Complaints Commissioner

111. (1) The Complaints Commissioner shall have such functions and jurisdiction as may be prescribed by law.
- (2) In the exercise of his or her functions, the Complaints Commissioner shall not be subject to the direction or control of any other person or authority.

THE COMPLAINTS COMMISSION

Tel.284-468-5123  feedback@ombudsman.vg

P.O. Box 4628, Road Town, Tortola VG1110 British Virgin Islands



facebook.com/complaints commission of the Virgin Islands



twitter.com/VIombudsman