



**Annual Report**

**of**

***Office of the Complaints Commissioner***

**For the 2008/9 Financial Year**

# Annual Report 2008–09

Annual Report of the Office of the Complaints Commissioner of  
the Cayman Islands addressing the Fiscal Year July 2008–June  
2009



Office of the Complaints Commissioner



## Office of the Complaints Commissioner

PO Box 2252

202 Piccadilly Centre

28 Elgin Avenue

Grand Cayman

KY1-1107

Telephone (345) 943-2220

Facsimile (345) 943-2221

Sister Islands Office

Brac House

Cotton Tree Bay

Cayman Brac

*Aim of the Office:* To investigate in a fair and independent manner complaints against government to ascertain whether injustice has been caused by improper, unreasonable, or inadequate government administrative conduct, and to ascertain the inequitable or unreasonable nature or operation of any enactment or rule of law.

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## 1. Executive Summary

The fiscal year 2008/09 was another busy and fulfilling year for the Office of the Complaints Commission (OCC). We considered 443 enquiries with 10% of which went on to becoming fully-fledged investigations. We received more enquiries than we had budgeted for, yet the actual number of complaints that gave rise to investigations was more manageable. The drop in investigations was attributed to the tightening of the intake processes within the OCC, and externally to the improvement of the implementation of the Internal Complaints Process within government entities.

Most of the complainants involving investigations were residents of George Town and more men than women filed complaints. We maintained a part-time office in Cayman Brac with the Analysts visiting the Brac periodically to address complaints from Little Cayman and Cayman Brac. Several companies did seek assistance from the OCC during the 2008/2009 year.

We anticipated that between two and four public-interest investigations would be completed and sent to the Legislative Assembly. We completed four (4) Own Motions investigations.

- 1) OCC Own Motion Investigation: "Sunrise Adult Training Centre" completed and submitted to the Legislative Assembly in August 2008.
- 2) OCC Own Motion Investigation: "Do Government Entities hear their customers?" An audit of their Internal Complaints Processes."
- 3) OCC Own Motion Investigation: Public Service Pensions Board: Failure to comply with certain statutory obligations?" The investigation was completed and submitted to the Legislative Assembly in February 2009.
4. OCC Own Motion Investigation: "Disposal of IT Equipment & Computer Services." The investigation began in March 2009.

One Special Report was completed with recommendations. One Extra Ordinary Report was submitted to the Legislative Assembly as an Own Motion Investigation. Two annual Reports were submitted to the Legislative Assembly. We monitored (78) seventy-eight recommendations this year and (54) fifty-four recommendations were carried forward from last year. A total of (28) twenty-eight recommendations were monitored above the target of 20-50. We had evidence that (48) forty-eight recommendations were complied with and (1) one had been withdrawn.

Increased public awareness through media releases to advise the public when an Analyst would be in Cayman Brac to handle complaints. Press Releases giving a summary of progressing cases being monitored were released to the public. A Complaints Commissioner booklet was made available to clients of Women's Resource Centre detailing information on the Office of Complaints Commission and how assistance could be given to persons with Complaints.



A number of key strategic ownership goals were established in 2008-2009 including:

1. An improved presence on the internet for information purposes and to register complaints on line.
2. Implementation of performance appraisal system specified in Personnel Regulations.
3. Assist the Legislative Assembly to amend Complaints Commissioner Law.
4. Provide bi-monthly reports to the media on the work of the OCC.
5. Increase public awareness through media interviews, advertising.
6. Continued in-house training on human rights.

The OCC budget for the year 2008/09 of \$985,000 was satisfactory.

## 2 Commissioner's Message

The OCC achieved four of six of the strategic goals outlined in the 2008/09 Budget. Our efforts to establish credibility within the community continued to show positive results. It was important that the Entities/ Ministries and Portfolios establish an Internal Complaints Process through which they could address complaints against their organization. They could receive, investigate and resolve the complaints in an orderly manner. Surveys were done on the entities in 2005 and 2006. The OCC decided to launch an Audit of the implementation of ICP's by the entities in 2008. It started as an Extra-ordinary project and was completed as an Own Motions Report.

- 1) The OCC continued to improve our presence on the internet for informational purposes and to register complaints on line. This assisted the members of the community who were reluctant to come into the office or persons who wanted to know whether the OCC could assist them with complaints.
- 2) The OCC implemented the performance appraisal system specified in Personnel Regulations.
- 3) There was no amendment to the Complaints Commissioner Law during this period. The OCC continued to operate on the Complaints Commissioner Law (2006 Revision).
- 4) Reports were given to the media, but we were not able to complete the reports Bi-Monthly. This strategy was not complied with as specified in the Budget documents.
- 5) The OCC continued to increase public awareness through media interviews, advertising.
- 6) During the year in-house training on Human Rights continued. Dr. Epp met with Marilyn Conolly regarding Institutional support for Human Rights in August 2008.

### 3 The Oversight Committee of the Legislative Assembly

The Office of the Complaints Commissioner is an independent office.

The Cayman Islands (Constitution) (Amendment) Order 1993 amended the Constitution of the Cayman Islands to establish the Office of the Complaints Commissioner. The Constitution, in section 49(N)(5), states, “In the exercise of his functions, the Complaints Commissioner shall not be subject to the direction or control of any other person or authority.”

While the OCC is independent, it must also account for the manner in which it uses public funds. Section 45 (2) of the Public Finance and Management Law provides for the appointment of a financial oversight committee:

“45 (2) Unless the context otherwise required, Part IV shall apply in respect of the Office of the Complaints Commissioner as if –

- (a) every reference to the Governor in Cabinet or a minister were a reference to the committee of the Legislative Assembly responsible for overseeing the performance of the Office of the Complaints Commissioner, or if no such committee exists, the Speaker; and
- (b) every reference to a ministry were a reference to the Office of the Complaints Commissioner.”

The members of the committee are the Hon. Alden McLaughlin, Jr. (Chairman), Mr. W. Alfonso Wright, Mr. Moses I. Kirkconnell, JP, Ms. Lucille D. Seymour, BEM, and Mr. Rolston M. Anglin.

### 4 Introduction of Staff

The Office of the Complaints Commissioner is a challenging, stressful, and, because of the real difference it makes in people’s eyes, a very rewarding place to work.

The OCC is proud of the members of its 2008–09 team, who are introduced below.

#### **Commissioner**

**Dr. John Epp**

#### **Administrative and Investigative Officer**

Mrs. Susan Duguay

#### **Analyst**

Mr. Scott Swing

#### **Analyst**

Mrs. Barry Quappe

#### **Executive Assistant to the Commissioner**

Mrs. Bridgette von Gerhardt

#### **Receptionist**

Mrs. Claudine Simons

### 5 Training



As Commissioner, I strongly believe it is vital for the OCC to have well-trained staff, particularly in light of the work we carry out. During 2008/09 staff participated in various training sessions. Scott Swing participated in the SORT Team Training from the Ombudsman Office of Ontario. This training served to further strengthen the professional networking between offices. It was a networking opportunity that would facilitate professional exchange and open communication between professional investigators. Ms. Susan Dugay, Bridgette Von Gherhardt, Scott Swing and Dr. Epp attended an accrual accounting course offered by Deloitte and Touche. Barrie Quappe attended a Public Administrative Law Training Workshop in St. Kitts. Barrie Quappe and Bridgette von Gerhardt attended an Introduction to Excell course. Analyst Barrie Quappe attended a course in Business Writing that Works. She also attended a Public Administration Law Workshop in St. Kitts in June 2009.

## 6 Translation Services

On the basis of the broad cultural diversity in the Cayman Islands, it was anticipated that the OCC would better serve the public by being able to assist in languages other than English. Whilst she was in post, the Administrative and Investigative Officer, Mrs Susan Duguay, was able to assist people in French, and Spanish. Currently the Executive Assistant, Mrs von Gerhardt, is fluent in Spanish and is able to assist people in that language.

For services in 50 other languages, the OCC has contracted for translation services with All Languages Ltd.

## 7 Role and Function of the Office of the Complaints Commissioner

### 7.1 ROLE

The Office of the Complaints Commissioner exists to safeguard the community in its dealings with government agencies. The Office has three major statutory roles:

- *Complaint investigation:* the investigation and review of the administrative actions of Cayman government officials and agencies, upon receipt of complaints from members of the public, groups, and organisations.
- *Own motion investigation:* the investigation, on the initiative or “own motion” of the Commissioner (ombudsman), of the administrative actions of Cayman government agencies – often arising from insights gained from handling individual complaints.
- *Complaint monitoring:* the monitoring of the administrative actions of Cayman government officials and agencies, upon receipt of our recommendations.

The complaint and own motion investigation roles of the OCC are the more traditional roles that constitute the bulk of the work of the office. The guiding principle in an investigation is whether the administrative action under investigation is unlawful, unreasonable, unjust, oppressive, improperly discriminatory, factually deficient or otherwise wrong. At the conclusion of the investigation, we can recommend that corrective action be taken by an agency. This occurs either specifically in an individual case or generally by a change to relevant legislation, administrative policies or procedures.



A key objective of the OCC is to foster good public administration within Cayman government agencies, ensuring that the principles and practices of public administration are sensitive and responsive to the interests of members of the public.

The OCC does not represent the complainant or the government administration. It conducts an independent review and makes objective reports to the parties or the Legislative Assembly. It can address complaints that occurred within the past 12 months if the subject of the complaint is a government entity and if the complaint is not excluded by schedule 2 of the 2006 Complaints Commissioner Law (CCL).

The OCC has jurisdiction to consider decisions taken in the course of “maladministration” by a government entity. Government entities include a ministry, company, department, portfolio, statutory board or authority. Maladministration is defined in the CCL as “inefficient, bad or improper administration”. This includes unreasonable conduct (for example, delay) or abuse of power or authority. Abuse of power or authority may include an action based on a mistake of law or fact; an action which is unreasonable, unjust, oppressive, or improperly discriminatory; or an action based on *practices or procedures* which are unreasonable, unjust, oppressive or improperly discriminatory.

Examples of maladministration taken from the reports of the Parliamentary Ombudsman of the United Kingdom include bias, partiality, neglect, inattention, delay, abuse of power, incompetence, ineptitude, perversity, rudeness, unwillingness to treat the resident as a person with rights, refusal to answer reasonable questions, neglecting to inform a complainant about rights or entitlement including appeal routes, knowingly giving misleading or inadequate advice, offering no redress, faulty procedures, failure by management to adequately monitor compliance with procedures and failure to reduce the effects of rigid adherence to the letter of the law where that produces inequitable results.

The OCC also has jurisdiction to consider the inequitable or unreasonable nature or operation of any enactment or rule of law.

## **7.2 PRIMARY FUNCTIONS**

The primary functions of the OCC are to investigate; to recommend; to report; and to monitor.

### **7.2.1 Investigate**

A key objective of the OCC is to contribute to public discussion on administrative law and public administration and to foster good public administration that is accountable, lawful, fair, transparent and responsive. We pursue this objective in different ways – by looking in depth at an issue arising in a particular ministry/department/portfolio; drawing attention to problem areas across government administration; conducting own motion investigations; working jointly with ministries/departments/portfolios to devise solutions to the administrative problems that arise within government; and making submissions to external reviews and enquiries that are examining issues in public administration.

The OCC will investigate complaints made in writing that fall within the scope of the CCL, and matters directed to it for investigation by resolution of the Legislative Assembly. The OCC may also, on its own initiative, investigate matters which, in the Commissioner’s opinion, must be investigated in the public interest.

The purpose of the investigation is to ascertain whether “injustice” occurred as a result of maladministration.

The powers of investigation are the same as those of a Grand Court judge, although the Commissioner is not bound by the rules of court and can set his own procedure within the

confines of natural justice. These powers include the power to summon witnesses and receive confidential documents. Also, the Commissioner may order re-entry of a person removed from the Islands by the Immigration Department who is important to an ongoing investigation.

#### **7.2.2 Recommend**

The OCC may recommend action to be taken by an administrator when maladministration is found. The recommendations may address a specific action causing an injustice and may address laws, regulations or rules that lead to an unjust result. The OCC may recommend payment of compensation for the complainant who was wronged. In addition, the Commissioner may make such comments in relation to a case as he thinks fit, whether or not an injustice has occurred.

#### **7.2.3 Report**

The OCC must inform the government entity of the result of an investigation if injustice is sustained as a result of the actions taken by the entity's officer. If no action is taken by an administrator on a recommendation made by the OCC, the OCC must report this failure to the Legislative Assembly. Also, if the OCC conducts investigations on its own initiative, it must report the findings to the Legislative Assembly. A special report must be made to the head of department when serious misconduct is discovered in a department, and that report must be presented to the Governor and the Legislative Assembly.

#### **7.2.4 Monitor compliance**

The OCC must monitor compliance by government entities with recommendations made by the Office.

### **7.3 ADDITIONAL FUNCTIONS**

The CCL authorises the OCC to organise the mediation of a complaint that is minor in nature, where the parties are willing to meet to attempt to resolve the problem. This can be an effective route where, for example, the member of the public must often interact with the same government officer. Mediation can help defuse tension or frustration and serve to begin a dialogue and open lines of communication.

To better perform the role and function stated in the CCL, the OCC, by implication, must inform the public service and the residents of the Islands of all aspects of the Office.

### **7.4 AREAS OUTSIDE THE JURISDICTION OF THE OCC (SCHEDULE 2)**

1. International affairs – matters certified by the Governor to affect relations between the government and another country's government (or its international organisations).
2. Matters of national defence, external affairs and internal security (e.g., Emergency Powers Law).
3. Investigation of crime, or protection of the security of the Islands, by Police, Customs or Immigration.
4. The Governor's power of pardon.
5. Court proceedings, whether civil or criminal in nature.
6. Issues concerning the employment (e.g., hiring, promotion or firing) of government employees.
7. The Attorney General's powers of prosecution (e.g., beginning, overtaking or ending).
8. Legal advice given by the Attorney General to the government.



9. The Auditor General's actions (e.g., reviewing the government's accounts).
10. Matters under the Mutual Legal Assistance Treaties.
11. Contracts for services for government (but can investigate purchases of land).
12. Matters defined by the Constitution as outside of the authority of the court.
13. Any judicial function.

#### 7.5 SCOPE OF ACTIVITIES

Receiving written complaints from the public and deciding whether they should be investigated.

Appointing mediators to resolve complaints involving only minor maladministration.

Investigating written complaints from the public and reporting to the complainant and government entity on the results of the investigation.

Making recommendations for actions to be taken where injustice has occurred as a result of maladministration, monitoring compliance with these recommendations and, where no adequate action is taken, preparing a special report to the Legislative Assembly.

Referring to the relevant person or body for their action any evidence of breach of duty, misconduct or criminal offence;

Ascertain the inequitable or unreasonable nature or operation of any enactment or rule of law.

Providing an Annual Report to the Legislative Assembly on the performance of his/her functions.

#### 7.6 STRATEGIC OWNERSHIP GOALS

These have already been mentioned in the Executive Summary, Section 1 of this Report, these are:

1. Improved presence on the internet for information purposes and to register complaints on line.
2. Implementation of performance appraisal system specified in Personnel Regulations.
3. Assist Legislative Assembly to amend Complaints Commissioner Law.
4. Provide bi-monthly reports to the media on the work of the OCC.
5. Increase public awareness through media interviews, advertising.
6. Continue in-house training on human rights.

For a discussion on how these goals were met, please see the Commissioner's Message in Section 2 of this Report.

### 8 Demographics

Attached as Appendix B is an indication of the demographics of the people served by the OCC. There were 443 enquiries. Based on 43 files closed during the period ending the fiscal year June 2009, the complainants were mostly male twenty-four (24) and females twelve (12), seven (7) companies. The largest nationality of persons served were Caymanians (22). The number of



companies seeking assistance from the OCC demonstrates the credibility of the office within the business and professional sectors. This office is committed to continuing to increase the visibility of the OCC to all socioeconomic groups in Cayman society.

## 9 Intake and Case Flow Process

The basic intake process is depicted in a flow chart found below at appendix C.

### Appendix C

#### **Complaint received**

##### **Within jurisdiction?**

No-- Complainant advised where assistance may be obtained

Yes—

Attempts made by complainant to resolve complaint in other ways, including appeals?

No Complainant referred to appeal process

Yes—

Has informal review determined if evidence is sufficient for informal resolution or investigation?

No—Complaint closed by letter

Yes—

What happened when informal resolution attempted with officer?

Successful ---Closed file by letter

Not successful—investigation

#### **INVESTIGATION**

Maladministration identified?

No –Complaint closed by letter

Yes – Consider alternative Dispute Resolution? Yes or no.

Formal discussions, resolution?

No—Discussion with section head or head of department

Yes –Resolution and/or Report

#### **RESOLUTION AND/OR REPORT**

May include recommendations or comments.

## 10 Case Examples

The OCC deals with a diverse range of complex complaints where the results can differ widely. Below, we present a number of case studies reflecting that diversity and the very different outcomes that can occur. Other cases are discussed later in this report. Sometimes, government

entities are found wanting and the OCC will offer recommendations to rectify the circumstances giving rise to the complaints and help to avoid a repeat in future. The OCC often finds that entities in question are not at fault but that the law or regulations are inadequate. And in many cases, neither the office in question nor the procedures are at fault and the OCC will find no maladministration. Investigations can involve a number of different entities and require the analysis of expert opinion and special reports. Names and some details of the selected complainants have been omitted owing to issues of confidentiality.

#### **10.1 Cases 1: Alleged Maladministration by the Cayman Brac Labour Tribunal not upheld - completed August 2008**

When a complainant living in Cayman Brac complained that her case should have been scheduled for a hearing with the Cayman Brac Labour Tribunal, and stated that she believed that the Tribunal's adjournment of her first hearing in 2007 was improperly conducted as the Tribunal should have considered her case on the written statements and evidence provided. The OCC investigation discovered that a labour tribunal had not been appointed for Cayman Brac since 1999, and therefore no labour cases has been heard in the Brac after 1999. This information was brought to the attention of the Minister on 26 May 2005, and he responded on 2 June 2005 promising to take steps to appoint a labour tribunal as soon as possible. On 6 October 2005 the Ministry notified the OCC that a Cayman Brac Labour Tribunal had been appointed by Cabinet, and that the Labour Department was at that time, liaising with its members to ensure that proper procedures, policies and guidelines were administered. It was stated that the Department's aim was to schedule cases to be heard beginning in December 2005. Following some setbacks and a new Chairman and Deputy Chairman had to be appointed, but on 9 February 2006 the Deputy Chief Officer notified the OCC that the new Tribunal had been appointed. On 9 June 2006 the Deputy Chief Officer notified the OCC that training of the new Brac Tribunal members would commence on 16 June 2006. Later we learned that the training had been completed. As a result of our investigation we found that while there was considerable delay in the establishment of the Cayman Brac Labour Tribunal, the Labour Department, in spite of facing several unforeseen delays, endeavoured to rectify the inadequate state of affairs in Cayman Brac, and therefore the complaint was not upheld. Regarding the allegation that the complainant's first hearing was improperly conducted, the OCC learned from the Secretary of the Labour Tribunal that the complainant had received a second hearing on 22 August 2008 and the complaint was closed.

#### **Case 2: Allegations that the Immigration Department failed to complete an investigation in a reasonable timeframe, regarding an Employee of the Department divulging confidential information to someone outside of the Department was well founded - completed June 2008**

A complainant filed a complaint with the OCC against the Immigration Department, stating that she had sent an email to the Chief Immigration Officer, and two other persons within the Department, regarding the dissolution of her marriage and her ex-husband's status on the island. She alleged that the private details contained in that email and attachments were communicated to her ex-husband. The complainant contended that an employee of the Department violated the Public Servant's Code of Conduct by revealing this information to a third party, and put her in a position of possible risk of attack from her ex-husband. She also stated that she had initially registered her complaint with the Immigration Department on 8 January 2008, but as at 18 June 2008 had not received a response from the Department with the results of their investigation. The OCC investigation found: 1) the allegations were of a serious nature 2) they must be investigated promptly and the CIO did have senior experienced investigators he could assign to complete the task 3) the allegations were investigated thoroughly 4) the CIO must draw a conclusion in a reasonable timeframe 5) the result of the investigation must be reported to the complainant in a



reasonable timeframe 6) the CIO failed to complete the investigation and the report in a reasonable timeframe. It was also found that there had been an injustice to the complainant. Whether there is a finding of an information leak from the Department or not, the complainant needs to know the truth and have her mind put at ease. Two recommendations were made: 1) that the Immigration Department complete internal investigations arising from complaints made by residents within one month, and 2) that the Immigration Department report the findings of the investigation to the complainant within one week.

**Case 3: Complaint of non-response against the Department of Employment Relations found to be due to unusual factors - completed July 2008**

When a complainant filed a complaint against the Department of Employment Relations regarding non-response, the OCC investigation revealed that this was due to unusual factors. In October 2007 the complainant had contacted the person in charge of the Internal Complaints Process at the Department following a referral from the OCC. She returned to the OCC in May 2008 to file a formal complaint, stating that since filing her complaint with the Department in October 2007 she had called many times to follow-up but had received no response. The OCC investigation revealed that the Department's member of staff who was in charge of their Internal Complaints Process had left the year before and that many of her files concerning internal complaints had been deleted. A new Director had been appointed in May 2008, who had taken over this role also. The case did involve many unusual factors coming together as opposed to maladministration, and it was unlikely that these circumstances would occur again in the future. The Director immediately assisted the complainant, and the complaint was resolved between the parties.

**Case 4: Allegations that the method currently being used by the Cayman Islands Government (Economics & Statistics Department) to calculate the Consumer Price Index are flawed, and do not present a fair evaluation of all that is indexed to the CPI are not well founded - completed November 2008**

A complaint was filed by a local resident against the Economics and Statistics Office. He stated that he had extensively researched the issue and believed that the government's current calculation method was flawed and did not present a fair evaluation of all that is indexed to the CPI, such as wages, pensions, rents, etc. He believed that the people of the Cayman Islands were being misled with false statistics. After a study of all of the evidence obtained, especially the opinion which the OCC obtained from an independent expert regarding the relevant issues, the OCC found the complaint was not well founded.

**Case 5: The Immigration Department failed to follow due process by not conducting a thorough and fair investigation into a complaint of professional misconduct- completed January 2009**

When a complainant contended that the Immigration Department had failed to follow due process by not conducting a thorough and fair investigation into a complaint of alleged professional misconduct. The complainant stated that he had spoken with the Chief Immigration Officer, and the Deputy Chief Officer in regards to what he considered was an abuse of power by the Department's Enforcement Officers relating to his being detained overnight by Enforcement Officers. As he had not received a response from the Department, he had felt that an internal investigation had not been, and would not be commenced into his complaint. The OCC found the complaint to be well founded. Though the Department had done an investigation, it had not thoroughly and properly investigated the complaint, and the complainant had not been informed



of the details of the internal investigation conducted by the Deputy Chief Immigration Officer, and therefore could not determine whether or not a proper investigation had been conducted. These failures amounted to maladministration and caused an injustice to the complainant. The OCC made the following recommendations: 1) That a proper investigation be carried out on complaints made against Immigration Officers within one month of the receipt of the complaints; 2) That the investigator draw conclusion within an additional week; and 3) That reasonable details of the investigation, the evidence, and the result be reported to the complainant within the same week as the conclusion is reached.

**Case 6: Allegations that the Caymanian Status & Permanent Residency Board was misled by Immigration's file on Complainant Husband Upheld - completed November 2008**

A complaint was registered against the Immigration Department by a Caymanian woman who believed that the Department had wrongfully removed her husband from the Islands. In April 2008 the Caymanian Status & Permanent Residency Board had requested an investigation into the marriage of the complainant and her husband for two reasons: 1) The first reason was the age difference, and 2) The other reason was that 'a Board member and staff member had advised that the couple were never seen together and that the wife was usually walking the streets alone'. The Immigration Law (2007 Revision) Section 31 (3) (b) and (c) does allow the Board to consider whether the marriage is a marriage of convenience or if the marriage is stable. The memorandum of 2 June 2008 written to the Board by the Immigration Officer who investigated the marriage of the couple, expressed the Officer's belief that the marriage was one of convenience, but did not provide any supporting evidence, to demonstrate how he reached this conclusion. The Officer testified that he did not believe that the difference in the couple's ages should be taken as evidence of a marriage as the wife looked much younger than her age. He noted that he had a very limited number of facts to work with and that the wife had been disrespectful to him. He admitted that he had not asked the standard questions, nor received the answers to those questions, although he had attempted to get the wife to consent to this process. He had not done a home visit, as he had not been invited, and had not interviewed other relevant witnesses. The Officer also testified that had he known some of the facts provided to him by the OCC, he would have likely altered his opinion and advice to the Board. In response to the OCC's tentative findings the Deputy Chief Immigration Officer informed the OCC of the Department's decision: that on compassionate grounds she had authorised that the husband be returned to the Islands. Additionally, she had arranged for a visa to be issued to him shortly after his arrival in the Islands, and during the course of his visit to the Islands she would arrange to speak with him regarding the status of his marriage. The OCC found that the Caymanian Status and Permanent Residency Board was misled and that the complainant's husband's file and record should be corrected. It recommended: 1) A proper investigation be carried out on the questions of the validity of the marriage and that the findings of that investigation be sent to the Board. 2) In the event the investigation lead to the conclusion that the marriage is valid, the Immigration Department should resubmit the husband's Permanent Residence/Residency Employment Rights Certificate application to be re-considered. 3) Enforcement officers must be training afresh on how to present opinions after conducting investigations into the validity of marriages. 4) The cost of the returning ticket for the husband to Grand Cayman to be paid for by the Immigration Department.

**Case 7: Complaint against the Electrical Trade Licensing Board of Examiners regarding wrongful interpretation of the Electricity Regulations (2005 Revision) Unfounded - completed November 2008**



A local electrical company filed a complaint against the Electrical Licensing Board of Examiners alleging that the Board had wrongfully interpreted the Electricity Regulations (2005 Revision), thus unduly delaying its applications for licenses by wrongfully denying or deferring said applications. In the company's mind the Board was displaying a very narrow interpretation of the law and had therefore displayed a failure to adhere to the Regulations. The OCC began its investigation by reviewing all relevant correspondence and submissions, and subsequently sought an independent legal opinion as the company's complaint dealt with a number of complex legal questions. Following receipt of the legal opinion, the OCC met with the Board's Secretary and a Board Member to review the process used by the Board in evaluating applications, and also discussed the independent legal opinion. The Board also provided additional supporting information and documents. The OCC found that the Board had given reasonable consideration to applications, had adhered to the Regulations, and the process was completed in a regular fashion. The complaint that the Board was displaying a very narrow interpretation of the law was therefore unfounded.

**Case 8: Deferral of Complainant's application for naturalization by the Portfolio of Internal & External Affairs due to some fundamental failings - completed April 2009**

When a complainant filed a complaint against the Portfolio of Internal & External Affairs, stating that she believed that she and her husband had not been fairly treated as the decision to defer their applications for Naturalization, or not to consider them in a timely manner, had the same effect as a refusal. She felt that by deferring the applications, or by failing to consider them (and not refusing them) they had been prevented from exercising any other remedy available to them. The complainant claimed that she had attempted on numerous occasions over the years to resolve this matter internally, by emailing the Corporate Manager and also writing directly to the Chief Secretary, but had received no satisfactory responses. The OCC investigation found that this was due to some fundamental failings. The Portfolio was provided with the OCC's tentative findings and conclusions in a minded letter in February 2009. In March the complainant and her husband were issued a letter of apology from the Corporate Manager regarding the protracted time period for their application, offering an explanation of their unique challenges as they related to the couple's travel dates in and out of the Cayman Islands. The letter also confirmed that they were granted Naturalization in early March 2009. The Portfolio also sent the Corporate Manager on a training course in early March 2009 demonstrating their efforts for ongoing education of their staff for improved administration. The OCC closed this case as being resolved between the parties.

**Case 9: The Department of Employment Relations failed to provide sufficient notice to the complainant, as to the nature of the positions that she was being interviewed for regarding potential jobs - completed March 2009**

A complaint was registered against the Department of Employment Relations by a complainant who stated that she had written to the Director of the Department, expressing her concerns that DER had failed to provide her with adequate assistance in finding any form of employment. She also stated that they had failed to provide her with sufficient notice as to the nature of the positions that she was being interviewed for, and claimed that this failure created a situation whereby she was unable to adequately prepare for interviews, and that no response had been received from the Director. The OCC investigation revealed that the complainant's resume was sent out to a significant number of potential employers, however, both of her files, electronic and paper were lacking any detail regarding contact by DER staff, or any other actions the Department took in relation to her file. The OCC made recommendations that: 1) DER must review the complainant's file and make arrangements to re-interview her to ensure that the



Department has an accurate picture of her qualifications, strengths and weaknesses so as to match her to the jobs which are most suited to her needs. 2) DER must ensure that all staff make file notes of interactions with clients on clients' files. 3) DER must ensure that their formal policy for contacting clients prior to nomination for a job interview is communication to all staff members and monitored for consistency through the regular review of file notes. 4) DER must provide written responses to written correspondence.

**Case 11: No evidence found in file to support allegation of Employment Relations Department's Director engaging in unprofessional conduct regarding a complaint registered with the Department - completed April 2010**

A complainant alleged that the Director of the Department had engaged in unprofessional conduct regarding a complaint registered with DER by one of her former employees. She contended that despite being in a direct conflict of interest, the Director did not recuse himself from the complaint, but had in fact directly involved himself in the investigation and administration of the complaint. The OCC investigation found no notes were made on the DER files regarding interference by the Director, nor could evidence be provided that this had been brought to the attention of management. Unfortunately, there was little hard evidence contained in the file to assist our investigation so it was virtually impossible for the OCC to judge this case. There were no minutes of meetings held, no notes to file outlining the movement of the file from one officer to another or giving reasons for the transfer of the file, nor notes to senior Ministry officials complaining about the Director's involvement. Absent this hard evidence it was impossible to give the proper weight to the oral evidence presented. The OCC found that there were no formal internal policies or procedures in place which would assist any staff member of DER in disclosing a possible conflict of interest and allowing for a full and fair investigation into complaints. We recommended that the Ministry institute a written policy within 30 days on how DER employees (including the Director) are to disclose possible conflicts of interest and how to properly recuse themselves from such cases, and that the Chief Officer should specifically identify the updating, recording and logging of information as a performance target for the Director of Employment Relations. The Director will be required to report to the Ministry on compliance on a monthly basis, for the first 6 months and quarterly thereafter. The Director, shall then, in turn, identify and monitor the recording and logging of information as a performance target for DER staff members.

## **11 Matters Arising from Written Complaints**

### **11.1 SPECIAL REPORTS**

#### **Special Reports**

The Complaints Commissioner Law (2006 revision), section 18 (3) states that where the Commissioner has made a recommendation and he is of the opinion that inadequate action has



been taken to carry out the recommendation, a special report must be laid before the Legislative Assembly.

One (1) Special Report: "Existence of the Internal Complaints Process" became an Own Motions Report.

Two Special Reports: Annual Report for the Office of Complaints Commission 2005-2006 and the Annual Report for the year 2006-2007 were delivered to the Legislative Assembly 16<sup>th</sup> June 2009.

#### **Special Report:**

**Written Complain Number CO708-10859 made 28<sup>th</sup> September 2007, and the Department of Immigration- Refund Request Processing. The Special Report was prepared for the Legislative Assembly 28<sup>th</sup> November 2008**

#### **Introduction**

On 28 September 2007, a complainant registered a complaint against the Immigration Department ("the Department"). The company alleged it had paid repatriation deposits and work permit fees for its employees in accordance with the Immigration Law. It alleged that deposits were made for two people (employees) and that they were refundable. As the employees were no longer employed by the company, refunds had been requested from the Immigration Department. However, the company had received no response from the Department.

On 3 October 2007, Chief Immigration Officer (CIO) was sent a Notice of Investigation by the Office of the Complaints Commissioner ("OCC"). A response letter from the Immigration Department of 15 October 2007 stated that, "A temporary work permit was refused for "one employee" on 5 May 2006 and the work permit fee of C\$275.00 was refunded by cheque No. 109732 dated 18 May 2006." The refund had been paid to the "company's" attorney, who had failed to alert "the company" to this fact.

Yet while the matter of the "employee" had been cleared up, Chief Immigration Officer also confirmed that the deposit of C\$2,000.00 that had been paid by "the company" on behalf of "the employee" was outstanding and would be refunded to "the company" on 20<sup>th</sup> October 2007. The OCC completed its investigation and found the company's complaint to be well founded in part.

On 30 October 2007, "the company" contacted the OCC and stated that while the company appreciated the response from the Immigration Department, the promised refund had not yet been received.

On 15<sup>th</sup> November, the Commissioner faxed a closing letter to the Immigration Department that contained the following recommendations:

1. The repatriation fee be refundable and delivered to the complainant by 30 November 2007.

The Department's officer who was responsible for funds should be instructed to process refunds due within 30 days of properly documented requests for a refund.

The Company eventually received the deposit on 15 November 2007.

The OCC found it unacceptable that a small business owner had been forced to wait more than four months for the refund. Furthermore, the OCC regarded the Department's failure to meet a promised payment date as having brought its reputation into disrepute.

The monitoring of the above recommendation began in December 2007.

Section 18 (3) of the Complaints Commissioner Law (2006 Revision) states that "where the Commission has made a recommendation under subsection (1) and within the time specified or a reasonable time thereafter, he is of the opinion that no adequate action has been taken to remedy the injustice, he shall lay before the Legislative Assembly a special report on the case."

The Commissioner is of the opinion that no adequate action has been taken to date to conform to the recommended 30-day timeframe for the issuance of payment for properly documented refund requests.

In the OCC closing letter to the Immigration Department of 15 November 2007, the Commissioner found maladministration. The fact that a small business had to wait more than four months for a refund of money was beyond acceptable limits even by relaxed standards. The Commissioner made the following recommendation at the time, which has not been complied with: "The Department's officer responsible for refunds be instructed to process refunds due within 30 days of properly documented requests for a refund."

The monitoring efforts by the OCC regarding this recommendation have been ongoing since the date of the completion of the investigation, and to date this recommendation has not been complied with.

## 12 Own Motion Investigations

### 12.1 COMPLETED REPORTS

The Commissioner can conduct an investigation as a result of a complaint or on his own motion (or initiative) if there are special reasons that make investigation desirable in the public interest. During the course of the 2008-2009 fiscal year, four (4) own motion investigations were undertaken and one (1) of the four was continued into the next year. A synopsis of two (2) of the reports tabled in the Legislative Assembly is presented below.

- 4) OCC Own Motion Investigation: "Sunrise Adult Training Centre" completed and submitted to the Legislative Assembly in August 2008.
- 5) OCC Own Motion Investigation: "Do Government Entities hear their customers?" An audit of their Internal Complaints Processes." Date 22<sup>nd</sup> October 2008
- 6) OCC Own Motion Investigation: Public Service Pensions Board: Failure to comply with certain statutory obligations?" The investigation was completed and submitted to the Legislative Assembly in February 2009.

The other investigation which remained open as at the end of the fiscal year is as follows:

- a) Disposal of IT Equipment and Computer Services."



## **Own Motion Investigation Report Number 12**

### **Public Service Pension Board:**

#### **Failure to comply with certain statutory obligations?**

**Prepared 16 February 2009**

##### **1.1 Background**

Between 2006 and 2008, the Office of the Complaints Commissioner (OCC") conducted an Own Motion Investigation into whether the Public Service Pension Board ("PSPB") was adhering to some of its legal duties and obligations. This investigation was launched immediately after a separate inquiry into the PSPB's failure to provide timely annual reports, which had brought to the OCC's attention a number of reporting and management issues.

The OCC decided to conduct an investigation because many stakeholders were affected, and because some of the stated provisions of the Public Service Pension Law 2004 as amended (PSPL") may have been overlooked or ignored, which may have led to an injustice. In the event they were not overlooked or ignored, the public should be informed. The OCC "Can bring the lamp of scrutiny to otherwise dark places, even over the resistance of those who would draw blinds."

The Own Motion Investigation lasted for more than two years because it was adjourned from time to time, principally to allow the administrative office of the PSPB ("the Agency") to move forward with preparing its financial statements for the Financial Secretary and the Auditor General; to settle questions of the lawful authority of the investigation by the OCC and to allow the PSPB to continue efforts to put its house in order.

##### **1.2 What was considered?**

In outline form, the OCC looked into the following aspects of the PSPL 2004 as part of its investigation:

Sections 5 and 6: This section of the law relates to the creation of the Board of Directors Trustees, their duty to administer the Board and the Fund (i.e, First Schedule).

Section 10 (a): This sub-section relates to the PSPB's duty to produce a Public Service Pensions handbook.

Section 10(b): This sub-section relates to the PSPB's duty to produce annual benefit statements.

Section 10 (f): This sub-section sets out the regulations that the PSPB's must comply with – e.g. regulation 12 states that the PSPB needs to conduct annual inquiries to ensure that a beneficiary is still alive (and thus, still qualifies to receive pension payments).

Section 11: This section relates to the PSPB's duty to submit financial statements through the Financial Secretary to the Auditor General and then the stakeholders.

Section 16: This section relates to the investment of the funds and the appointment of investment managers.



Section 26: This section relates to the PSPB's duty to make payments to people wishing to leave the Plan prior to their retirement.

The PSPB felt that the issues finally investigated were not serious enough to justify the investigation. The OCC gathered information from approximately 25 witnesses and among those interviewed were some of the directors/trustees of the PSPB and their advisers. The OCC also obtained and read many documents including the Auditor General's report and a report commissioned by the PSPB and prepared by Deloitte (Review of the Critical Operational Processes). In addition, Chief Financial Officers of government entities were required to produce records of the payment of employer and employee contributions into the PSPB. The OCC was assisted by advisers including the Superintendent of Pensions.

### **3. Background**

#### **3.1 History of PSPB and Agency**

The Public service Pensions Law 1999 came into effect on 14 April 1999, repealing and replacing the law that had governed the Public Service Pensions Plan since 1964. The new legislation created a Defined Contribution Plan for new participants and continued the Defined Benefit ("DB") Plan for existing participants. It defined duties and responsibilities associated with proper management of an important entity.

The PSPB stated:

"The history of the Board shows a progressive movement of public sector pension schemes from a pay-as-you-go system to a properly structure pension fund with internationally accepted financial planning and funding in place having grown from a mere \$3 million Fund to a Fund now in excess of \$250 million, under the effective management of the Board. The aim historically was to provide a social, economic and political context that underpins the management of pension plans which would give voice to the stakeholders: Government, employers and employees. There were concerns about the perceived politicization of the administration of the Fund and the protection of the pension promise to public servants prior to the establishment of the Board.

"Consequently, an autonomous Board was established to administer the Fund. During the initial stages of the operation, the focus was on attracting and retaining qualified and trained personnel as well as establishing the diversification of investments. Therefore, during the formative years, the organization did not have the personnel to attend to the inherited backlog."

#### **Findings of the Investigation:**

Declaration #1: It is declared to the Legislative Assembly that the PSPL 2004 be amended to remove the appointment of directors/trustees from the Public Managers Association and the Public Service Commission and to provide for the appointment of two additional directors/trustees to the Board.

The PSPL prescribes quarterly meetings. The records indicate less than appropriate levels of attendance by directors/trustees at quarterly meetings and highlight the poor attendance of those directors/trustees who were senior civil servants. This leads to the following comment by the OCC.

**COMMENT #1:** Directors/trustees who do not attend meetings regularly are failing in their responsibilities and should be replaced.

Evidence was also gathered that raised questions about the level of training given to trustees. The investigation discovered that orientation exercises for trustees were postponed during 2005 and 2006. More recent training was given on 27 June 2008. The OCC states that it is important to accept and apply training. And it is fair to state that the director/trustees are able to draw on the expertise of the Agency staff and independent advisors.

### 1.3.2 Receiving Funds

In the course of the investigation, it became clear that the PSPB was not receiving funds into the Plan in a timely manner. For example during the period 2004-2005, the Health Services Authority ("HSA") collected its employees' contributions but did not then forward the money to the Plan. Nor did HSA forward its own contribution. At one point in time, the HSA owed approximately \$1.7 million to the Fund.

A large proportion of PSPB time was spent chasing contributor organizations. This had a negative impact not only on the PSPB Finance & Investment Department but also on Plan administration. OCC investigative work in 2005 had flagged this problem, and, as the Deloitte report in 2006 confirmed, such late payment could affect the accuracy of benefit statements and reduce investment returns, as well as hamper the ability to comply with the payment out obligation in section 26 compliance. This leads to the following comment by the OCC.

**COMMENT #2:** The Board Agency should inform the stakeholders when government entities fail to pay pension contributions in a timely fashion.

The PSPB took the initiative to retain Deloitte to examine and report on the operational condition of the PSPB. Deloitte's final report was completed in June 2006. The OCC went to considerable—including legal—lengths before it was finally permitted to review the Deloitte report. On seeing it the OCC found that it could not be accurately described as "positive," and it did contain many valid and useful points on the better administration of the PSPB, many of which are highlighted throughout this report. But the directors/trustees delayed reviewing the report and ensuring implementation of its recommendations. (The minutes state "As the Managing Director had tabled the Deloitte Report in 2006, the Board is unable to distance itself from the response to the Deloitte Report for the Board's consideration.") This amounted to an injustice that exposed the Fund to unnecessary risks and expenses through failure to improve administration. This leads to the following recommendation by the OCC:

**Recommendation #1:** It is recommended that the directors/trustees consider potentially material information in a timely fashion.

**Recommendation #2:** It is recommended that the directors/trustees ensure compliance with reporting requirements.

Section 26 of the PSPL 2004 requires an actual payout under the Direct Contribution Plan within 30 days of effective notification for those who do not hold Caymanian Status and cease to reside in the Cayman Islands. The PSPB has conceded, and the Deloitte report confirmed, that this compliance was not and might never be achieved. Even the Cabinet appears to have accepted this failure to comply.



The OCC agrees that there may be merit to the PSPB's wish to amend the target-say, to one year. And some attempts to make timely payouts have been frustrated by the failure of the employer to make all required payments. Yet the directors/trustees should have formulated a plan to allow for relatively liquid short-term investments to be made available to satisfy anticipated payout obligations. Until legislative action is taken, non-compliance with section 26 is maladministration and it is an injustice to those who have sought timely payment. This leads to the following recommendation by the OCC.

**RECOMMENDATION #3:** It is recommended that the directors/trustee formulate a system to ensure compliance with the obligation to pay our funds stated in section 26 PSPL 2004.

#### **REPLY**

The PSPB made the following relevant statements on 6<sup>th</sup> February 2009:

"The PSPB welcomes and appreciates it when an organisation such as the OCC raises issues with proper justification. When investigations are carried out properly, it can only help to improve the functioning of the organisation. However, all of the issues and questions raised by the Commissioner that are valid are those that the PSPB itself has recognised through reports that it has commissioned on its own initiative, and have largely addressed already. The PSPB therefore sees no value to the OCC's report.

"The achievement of the Board thus far (is) to successfully administer the Fund, valued at about a quarter of a billion dollars, without reducing stakeholders' interests or diminishing the deferred income of pensioners/participants. This goes to the crux of the fiduciary duties of the Board."

#### **1.5 Conclusion**

The evidence gathered in the OCC's Own Motion investigation leads to the conclusion that the PSPB has failed to comply with certain statutory obligations.

The OCC investigation led to two important conclusions. First, that the director/trustees and the PSPB as a whole were guilty of maladministration in failing to comply with certain statutory obligations and this maladministration caused injustice to stakeholders. Second, that the PSPB has begun to get its affairs in order and, with continued positive steps, it should be able to operate in an appropriate manner henceforth, if it honours its reporting obligations and continues to fulfil its other fiduciary duties.

#### **The declarations made are as follows:**

- 1) It is declared to the Legislative Assembly that the PSPL 2004 be amended to remove the appointment of directors/trustees from the Public Managers Association and the Public Service Commission and to provide for the appointment of two additional directors/trustees to the Board.
- 2) It is declared to the Legislative Assembly that the Legal Advisor to the Board should not be a member of the Board.
- 3) It is declared to the Legislative Assembly that the PSPL should provide that the Chairman of the PSPB be a person other than an officer of the employer or a senior civil servant.

#### **The comments made are as follows:**

- 1) Directors/trustees who do not attend meetings regularly are failing in their responsibilities and should be replaced.

- 2) The Board and Agency should inform the stakeholders when government entities fail to pay pension contributions in a timely fashion.

**The recommendations made are as follows:**

- 1) It is recommended that the Board consider potentially material information in a timely fashion.
- 2) It is recommended that the directors/trustees ensure compliance with reporting requirements.
- 3) It is recommended that the directors/trustees formulate a system to ensure compliance with the obligation to pay out funds stated in section 26 PSPI, 2004.

**Own Motion Investigation Report Number 11**

**Date: 22 October 2008**

**Do Government Entities hear their customers? An Audit of the Internal Complaints Processes**

**Executive Summary**

In 2005, the Office of the Complaints Commissioner (OCC) launched a project to determine which government entities had a formal or informal process through which they received and addressed any concerns of the public that they served.

An effective internal complaints process (ICP) is a process by which complaints against an organisation are received, investigated and resolved in an orderly manner. Maintaining an effective ICP is essential for an organization to capture and utilize information about what customers are feeling, experiencing, and expect from the organisation. A formal ICP includes a documented procedure that the organization follows when processing a complaint. In some entities an informal ICP can be effective.

The OCC identified seven Core principles that should be considered when developing an ICP. An ICP must be:

- Accessible
- Simple
- Timely
- Credible in Process
- Confidential and Isolated
- Flexible and
- Measurable

Each Entity was surveyed –and asked to say if they had established a formal or informal ICP. Reports were done in 2006, 2007 and the most recent in 2008. Each of these reports highlighted the state of the ICPs within government and was tabled in the Legislative Assembly.



An Own Motions investigation was done in June 2008 in order for OCC to determine whether the entities had established ICPs and whether they were formal or informal and effective or ineffective.

This audit confirmed that while the majority of entities had formal ICP's, a sizeable minority did not. Twenty-two entities did not have formal ICP's or any ICP despite the OCC's efforts to guide them in establishing formal ICPs. It can be sorted that some of these entities have a high volume of interaction with the public while others almost none.

In the most serious cases, the OCC determined that a failure to establish an effective ICP amounted to maladministration. It made this ruling against six entities.

Fifty-three entities were found to have formal ICPs and 17 were found to have informal ICP's. Two entities were found to have their complaints addressed through the ICP's of associated bodies. Twenty-two entities were found to have developed an ICP that had incorporated all seven core principles of an effective ICP.

Forty-one of the 76 entities, at the time of this investigation, were found to have existing websites; however, only 14 were found to have included information about their ICP on their websites. Thirteen of the entities were found to have brochures explaining their ICP for the public and three entities were found to have newsletters that had provided information to the public about their ICPs.

Eleven entities were found to have frontline staff that were not knowledgeable about their ICP. Undoubtedly, as a result of our visits and highlighting of this shortcoming, these entities will have swiftly remedied those problems. The rest of the entities with ICP's were found to have frontline staff that were knowledgeable and/or reasonably helpful in providing information to the public regarding making a complaint through their process.

Far too many of the entities relied on their staff to provide information about their ICP to the public without any supporting print or electronic access to that information. While staff are a valuable medium through which to disseminate information, they should not be the only way. All entities were encouraged to facilitate the provision of ICP information through as many channels as they are able. In most cases, entities noted that they would be including their ICP information on existing or new websites in preparation for the implementation of the Freedom of Information Law.

Since the inception of the OCC's efforts to encourage government entities to develop and implement ICP's in 2005, this Office has seen a significant drop in the number of complaints made to the OCC against government entities. Part of this reduction we believe can be directly attributed to the introduction of ICP's within each entity. This reduction can also be attributed partly to the improvements to operating procedures in many government entities, and partly to the existence and influence of the OCC.

### 13 Complaint Resolution and Mediation

The majority of enquiries to this office are handled by referring complainants to the complaints officer in the agency concerned. The OCC assists enquirers by helping them to crystallise their complaint, explaining procedures that apply to their case, and making appointments for them at the relevant agency. This is consistent with good dispute-resolution principles, which stress that an agency should generally be given the first opportunity to consider a complaint and resolve it. Many government entities now have internal complaint-handling procedures that can deal effectively with the majority of the complaints they receive. By handling complaints directly, agencies are better placed to learn from their mistakes, to clarify any public misunderstanding about the agency's policies and practices, and to rebuild trust with the clients. Complaint referral is also often the most efficient means of addressing a person's complaint.

However, we have at our disposal another means to resolve disputes. The CCL authorises this office to organise the mediation of a complaint that is minor in nature, where the parties are willing to meet to attempt to resolve the problem. This can be an effective route where, for example, the member of the public must often interact with the same government officer. Mediation can help defuse tension or frustration, and can serve to begin a dialogue and open lines of communication.

### 14 The Power of Recommendation

In the event that an investigation results in a finding of maladministration and injustice, the OCC can make a recommendation under section 18(6)(a) of the CCL. Some recommendations made were referred to in the case summaries above and others are noted below. Recommendations are monitored to encourage compliance, and if reasonable progress towards compliance is not made (in the case of recommendations arising from written complaints) a special report is made under section 18(3) to the Legislative Assembly. In the event that an investigation results in a finding of no maladministration or injustice, the OCC cannot make a recommendation.

#### 14.1 RECOMMENDATIONS COMPLIED WITH

The test for compliance is substantial, not exact, compliance.

**Number of recommendations made in any year but complied within 2008–2009 = 48.**

In some situations, a long period of time lapses before a recommendation is complied with, i.e., amending legislation. In other situations, recommendations are seemingly ignored in spite of the pledge made on behalf of government by the Attorney General recorded in Appendix A. Here are some examples of recommendations made and complied with:

#### Case No. 1

In our Own Motion Investigation of 7 June 2006 entitled: Investigation of the privileges and Opportunities available to the Inmates of Fairbanks and Northward Prisons we recommended:

1. It is recommended that Her Majesty's Prisons ("HMP") follow the provisions set out in the CWR Program document. It is also recommended that the guidelines be amended to allow female inmates equal access to the CWR Program. This will involve addressing concerns about female inmates becoming pregnant while participating in the CWR Program, including closer supervision of inmates.



2. It is recommended that as far as possible – bearing in mind the physical difference in the structures of the two prisons – that the privileges afforded to all inmates are consistent. Where there are unavoidable differences, every effort should be made to have comparable privileges extended to the inmates of the particular prison,

Compliance: On 1 March 2007, and again on 1 March 2008 the Commissioner met with Dr. Rattray of the H.M. Prisons to discuss the recommendations made. On 27 April 2009 the OCC viewed evidence of substantial compliance by the Prisons.

#### Case No. 2

On 30 June 2008 we received a complaint against Emergency Communications 911 by an elderly local gentleman, who stated that he had recently made two calls to 911 and had experienced difficulties in getting respondents to his address. He stated that during the most recent call, the 911 operator stated that the complainant's directions disagreed with the map that the 911 operators used; a map which was obtained from the Lands & Survey Department. The complainant expressed concern for the lives of his family, and those of his neighbours should this problem reoccur.

Given the seriousness and urgent nature of the complaint, the OCC immediately placed calls to the Acting Manager of Emergency Communications 911 and the Director of Lands and Survey Department. The Director of Lands & Survey agreed to urgently assign someone to visit the complainant's home to look into the discrepancy. He reported his findings to the OCC on 1 July 2008:

*"It appears that 911 primarily still use The Official Street Atlas for giving directions. This is a publication we put together about 4 years ago. The Second Edition has just gone to print. Having inspected the ..... page it becomes clear how two people could perhaps interpret the map in different ways. This might be so particularly if the user/reader is not that au fait with cartography/mapping. This is the root of the subject issue. So, it's not a mistake per se but rather an issue of interpretation.*

*Obviously with any publication The Atlas will contain a few 'errors': that is to be expected even with the very thorough Quality Control that was and is applied.*

*The bigger issue is one of 911 getting direct access to our GIS database and discussions were ongoing with the former Manager of 911 before she recently left the employ of GIG. It would be out intention to resurrect those discussions with the new manager."*

The Acting Manager of Emergency Communications 911 agreed that this was a matter that urgently needed to be examined. He explained that there are four 911 operator workstations. Three different map versions are currently in use by the 911 operators, the Street Atlas, an older version electronic map and a newer digital map that has been installed at one workstation. Operators use whatever map version is available to them at their particular workstation. He further stated that the different maps were consistent as they relate to the complainant's address, however, he agreed that the way in which the word graphic overlays the road could be attributed ..... Lane. He also stated that when 911 received the maps from Lands & Survey the staff was not trained in how to read a map.

Later in other correspondence he noted that each telecommunicator develops their own comfort for which system they use initially to view an address, and in the event of a discrepancy they are taught to check all possibilities.

The OCC found that to be a matter of maladministration and made the following recommendations to the Acting Manager of Emergency Communications 911:

- 1) That you as the 911 Emergency Services Manager contact the Director of Lands & Survey within one month from the date of this letter to schedule training for 911 operators in the reading and interpretation of maps.
- 2) That you as the 911 Emergency Services Manager resurrect discussions with the Director of Lands & Survey to facilitate 911 getting direct access to the GIS databases.
- 3) That you as the 911 Emergency Services Manager initiate a review of the current resources available to 911 operators with the view of ensuring that all operators have equal access to the same resources regardless of their workstation positioning.

Compliance: The OCC monitored the recommendations, and on 1 August 2008 when they met with 911 saw evidence of compliance regarding recommendations nos. 1 and 2. On 18 September 2008, the OCC received evidence that recommendation no. 3 was complied with.

### 14.3 RECOMMENDATIONS MONITORED

#### 15. Recommendations Made and Monitored:

In the event that an investigation results in a finding of maladministration and injustice the OCC can make a recommendation under section 18(6)(a). The OCC made 64 recommendations in the Fiscal Year 2008 – 09. They were monitored for compliance. Some recommendations monitored were:

##### **Case 1. Lack of Response - The Professional Standards Unit of the Royal Cayman Islands Police Service – decision made on 23 June 2009**

When a local company filed a complaint against the Professional Standards Unit [PSU] of the Royal Cayman Islands Police, stating that they had filed a complaint with the PSU, but had not received a response the OCC found the complaint well founded and recommended:

- 1) That the PSU provide the company with a letter of apology; and
- 2) That the PSU inform complainants in writing, in a timely manner of any reasons which may cause delays in the investigation of their complaints.

The OCC monitored the performance of the PSU with a view of encouraging them to develop systems which result in timely service to residents.



### **Case 2. Failure to conduct an Internal Investigation – The Department of Immigration – decision made on 9 June 2009**

When a complainant filed a complaint against the Department of Immigration [Department], stating that the Department had failed to conduct an internal investigation into his complaint in a timely manner, and despite registering a complaint with their internal complaints process, other than receiving a letter of acknowledgment he had not been contacted further regarding his complaint. The OCC found the complaint to be well founded and recommended:

- 1) The Department must establish a logging and monitoring system that allows it to track the processing of a complaint using the internal complaints process from the date of the receipt of the complaint to the date of resolution of the complaint.
- 2) An investigation into complaints received against the Department must be completed within one month of receipt of the complaint.
- 3) Reasonable details of the investigation, the evidence, and the result must be reported in writing to the complainant within the same week as the conclusion is reached.

The OCC monitored these recommendations to ensure that the Department developed a proper logging and monitoring system of their internal complaints, in order to know at all times at what stage their complaints investigations are at, ensuring that complaints received against the Department are completed within a month of receipt of the complaint, and also ensuring that not only will the public recommend a timely service, but that they are supplied with reasonable information regarding the investigation of their complaint.

## **15 Special Projects**

### **15.1.4 The Existence of Internal Complaints Processes in Government Entities in 2009 –**

The Audit of the Existence of the Internal Complaints Processes in Government Entities in 2009 became an Own Motions Investigation. (The results are outlined in the Own Motions investigation section above.)

Overall the Government Entities have improved their Internal Complaints Processes and many have implemented a process and identified a staff member to handle complaints.

## **16 Performance Targets 2009–10**

The following output targets, results and variances are displayed below.

## **16.1 OUTPUT 1: INVESTIGATIONS**

STATISTICS INDICATING IN DETAIL THE WORK COMPLETED ARE SET OUT IN APPENDIX B-C



OCC 1 Investigations of Written Complaints or Public Interest			\$738,750
<b>Description</b> <ul style="list-style-type: none"> <li>Deal with enquiries and provide advice and guidance to the public that do not result in a formal investigation</li> <li>Investigate written complaints made regarding injustice caused by improper, unreasonable or inadequate administrative conduct on the part of any Ministry/Portfolio and respective department, unit and section, Government-owned company and Statutory Authority</li> <li>Undertake public-interest investigations</li> </ul>			
Measures	2008–09 Budget	2008–09 Actual	Variance
<b>Quantity</b>			
Number of enquiries	200–400	443	+43
Number of complaints investigated	40–80	44	+4
Number of public-interest investigations	2–5	4	-1
<b>Quality</b>			
All complaints, enquiries and public interest investigations are to be investigated by suitably qualified and trained staff.	100%	100%	0%
All reports to be signed off by the Complaints Commissioner or, in his absence the Acting Commissioner.	100%	100%	0%
All complaints investigated in accordance with the parameters established by the Complaints Commissioner Law (2006 Revision)	100%	100%	0%
<b>Timeliness</b>			
All enquiries to be answered within five working days	90–100%	95%	+5%
Decision to investigate complaint and, if accepted, commencement of investigation of complaints within one month.	95–100%	30%	-65%
All investigations to be completed within four months of investigation being commenced.	80–100%	90%	+10%
All reports/public-interest investigations to be completed within five months of the request.	80–100%	90%	+10%
<b>Location</b>			
Cayman Islands	100%	100%	0%
<b>Cost</b>	\$738,750		
<b>Related Broad Outcome:</b> <b>10: Open, Transparent, Honest and Efficient Public Administration.</b>			

OCC 2 Monitor the implementation of the Commissioner's Recommendations		\$246,250	
Description			
<ul style="list-style-type: none"><li>Monitor the implementation of the recommendations of the report of the Commissioner and the timescales specified in the report of action to be taken.</li><li>Provide Special Reports to the Legislative Assembly where no adequate action has been made to remedy the injustice or evidence found of breach of duty, or criminal offence.</li></ul>			
Measures	2008/09 Budget	2008/09 Actual	Variance
Quantity			
<ul style="list-style-type: none"><li>Number of recommendations to be monitored</li><li>Number of special reports delivered to the Clerk of the Legislative Assembly Committee</li></ul>	20-50 2-4	78 3	+28 -1
Quality			
<ul style="list-style-type: none"><li>All monitoring carried out by suitably qualified and trained staff.</li><li>All reports to be signed off by the Complaints Commissioner or in his absence the Acting Commissioner.</li><li>All recommendations monitored in accordance with the parameters established by The Complaints Commissioner Law (2006 Revision).</li></ul>	100%  100%  100%	100%  100%  100%	0%  0%  0%
Timeliness			
<ul style="list-style-type: none"><li>Monitoring carried out on an on-going basis until recommendations are substantially implemented or withdrawn or until they are included in a special report to the Legislative Assembly.</li><li>Special Reports submitted to the Clerk of the Legislative Assembly Committee within one month of the Complaints Commissioner determining that no adequate action has been undertaken or evidence found of breach of duty or criminal office.</li></ul>	95-100%   90-100%	95%	
Location			
Cayman Islands	100%		
Cost	\$246,250		



<b>10.Open, Transparent, Honest and Efficient Public Administration</b>			
---	--	--	--

### **1.1. Targets and results, Output 1**

The number of Enquiries (443) reflected a variance of (+43) above the budgeted figure of 200-400.

The number of complaints investigated was above the target 40-80 reflecting a variance of (+4). Forty-four (44) complaints were investigated during the year. The negative variance in the number of complaints investigated has been due to the tightening of the intake processes, and the existence and recent implementation of internal complaints processes in government entities.

Four public interest investigations were undertaken during the year. Public Interest investigations brought forward from F2007-2008 were Own Motions Investigations: 1) Public Service Pensions Board – began in Feb. 2006, 2) Sunrise Adult Training Centre began in February 2008 3) Internal Complaints Process Audit –began in June 2008 4) Disposal of IT Equipment and Computer Services was not completed by June 2009.

### **Timeliness and results Output 1**

The OCC was able to close or resolve 419 (94.58%) of the cases within the timeliness target of 5 days. If the allegations were more complex then further investigation would be required and the complaint would be placed in a different category.

The following performance measures were set for the 2008-2009 fiscal year and they are contained in the Annual Budget Statement:

All enquiries to be answered within five working days (in 94.58% of cases) of being lodged.

All complaints to be investigated within four months (in 90% of cases) of being lodged (allowing a one-month period first to consider accepting complaint).

The Own Motions Investigations “Sunrise Adult Training Centre” was completed and submitted to the Legislative Assembly in August 2008.

### **Target and results Output 2**

There were seventy-eight (78) recommendations monitored during the year with a variance of +28 over the budgeted figure of fifty (50).

In the beginning of the year fifty-four (54) recommendations were carried forward from 2007/2008. During the year a total of 48 recommendations were complied with and (1) one recommendation was withdrawn.

One (1)Special (Extraordinary) Report completed and submitted to the Legislative Assembly stating non- compliance. Written complaint No. C0708-10859 made September 2007, and the Department of Immigration Refund Request Processing” delivered to the Legislative Assembly on 28<sup>th</sup> January 2009.

Two (2) Special Reports completed and submitted to the LA with no recommendations. Annual Report 2005-2006” delivered to the Legislative Assembly 16<sup>th</sup> June 2009. “Annual Report for 2006-2007” delivered to the Legislative Assembly on 16<sup>th</sup> June 2009.

## **OUTPUT 2: MONITORING RECOMMENDATIONS**

### **Quality Measures**

The following performance measures were accepted and followed:

- All monitoring carried out by suitably qualified and trained staff
- All reports to be signed off by the Complaints Commissioner or in his absence the Acting Commissioner.
- All recommendations monitored in accordance with the parameters established by The Complaints Commissioner Law (2006 Revision)

All staff used were suitably qualified and trained to investigate and monitor complaints, and the OCC was alerted to challenges to our jurisdiction and questions of fair process. The targets were achieved by recording any questions about the conduct of our team and our jurisdiction or process and by answering the questions fully through internal investigations or independent legal advice. The Commissioner also reviewed all findings and reports before they were finalized. All the targets were met.

### **Timeliness –Output**

Monitoring was carried out on an on-going basis (95%). Targets were achieved.

Special Reports submitted to the Clerk of the Legislative Assembly within one month of the Complaints Commissioner determining that no adequate action has been undertaken or evidence found of breach of duty or criminal offence(90%). Targets were achieved.



## APPENDIX B

### DEMOGRAPHICS of the people served by the OCC.

#### NATIONALITY 08-09

<u>NATIONALITY</u>	
AMERICAN	3
BRITISH	1
CANADIAN	1
CAYMANIAN	22
JAMAICAN	7
PHILLIPINO	1
OTHER	1
COMPANIES	7
<b>TOTAL</b>	<b>43</b>

<u>NATIONALITY</u>	
	<b>FEMALE</b>
AMERICAN	1
BRITISH	0
CANADIAN	1
CAYMANIAN	7
JAMAICAN	3
PHILLIPINO	0
OTHER	0
<b>SUB-TOTAL</b>	<b>12</b>
	<b>MALE</b>
AMERICAN	2
BRITISH	1
CANADIAN	0
CAYMANIAN	15
JAMAICAN	4
PHILLIPINO	1
OTHER	1
<b>SUB-TOTAL</b>	<b>24</b>
	<b>COMPANIES</b>
<b>SUB-TOTAL</b>	<b>7</b>
<b>TOTAL</b>	<b>43</b>



2008-2009

APPENDIX C

<u>Timeliness</u>		
Duration in days	#CASES	PERCENTAGE
1	346	78.10%
2	30	6.70%
3	16	3.70%
4	17	3.80%
5	10	2.30%
6	6	1.30%
7	4	0.90%
8	1	0.20%
9	4	0.90%
10	1	0.20%
11	1	0.20%
12	2	0.50%
13	2	0.50%
14	0	
15	0	
OVER 15 days	3	0.70%
Total	443	100.00%

<u>Closed/Resolved</u>	
Within 5days	419
Within 10days	435
Within15	440

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2. Statement of Responsibility for the Outputs	5-6
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## 1. Overview of Performance for the Year

### Introduction

This annual report details the performance of the Office of the Complaints Commissioner for the fiscal year ending 30 June 2009.

It includes information about outputs actually delivered during the year as compared to the planned performance documented in the Annual Budget Statement for the Office of the Complaints Commissioner for 2008/9, or as amended through the supplementary appropriation process.

It also reports those aspects of ownership performance that were contained in the Annual Budget Statement for 2008/9 or as amended through the supplementary appropriation process.

### Summary of Performance

#### Output Performance

Sub-output no.	Details of Sub-output	Target 2008-09	Result 2008-9
1	Answers to enquiries made in Office	200-400	443
2	Investigations of residents' complaints	40-80	44
3	Public-Interest investigations	2-5	4

Sub-output no.	Details of Sub-output	Target 2008-09	Result 2008-09
1	Monitoring of recommendations made	20-50	78
2	Reports to Legislative Assembly re: failure to comply with recommendations made or reporting misconduct	2-4	3

**Part A**  
**Outputs Delivered During the Year**





Office of the Complaints Commissioner  
Anderson Square – 4<sup>th</sup> Floor  
PO Box 2252 GT  
Grand Cayman  
Telephone (345) 943-2220  
Facsimile (943-2221)

27<sup>th</sup> July 2011

Alastair Swarbrick  
Auditor General  
Office of the Auditor General  
3<sup>rd</sup> Floor, Anderson Square  
George Town  
Grand Cayman

Dear Mr. Swarbrick,

In connection with your audit of the balance sheet of the Office of the Complaints Commissioner (the "Office") as of June 30, 2009 and the related statement of income and statement of cash flows and the statement of outputs for the year ended June 30, 2009, we recognize that obtaining representations from us concerning the information contained in this letter is a significant procedure in enabling you to form an opinion whether the financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the Office in accordance with International Public Sector Accounting Standards and the statement of outputs delivered in accordance with the Public Management and Finance Law.

**Representation on the Financial Statements and Statement of Outputs Delivered**

I recognize that, as members of management of the Office, we are responsible for the fair presentation of its financial statements and statement of outputs delivered. However I took up my appointment as Complaints Commissioner and Chief Officer on 17 August 2009 and the financial statements and statement of outputs delivered for the year 2007/2009 relate to a date more than 13 months before my appointment. As such, I do not make any

assertions as it relates to the financial statements and statement of outputs delivered for the Office of the Complaints Commissioner for the year ended 30 June 2009.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Paula Williams", written in dark ink.

---

Complaints Commissioner



## **Auditor General's Report**

### **To the Members of the Legislative Assembly of the Cayman Islands**

#### **Report on Statement of Outputs Delivered**

I was engaged to audit the Statement of Outputs Delivered of the Office of the Complaints Commissioner ("The Office") for the year ended 30 June 2009 in accordance with the provisions of Section 44(3) of the Public Management and Finance Law (2005 Revision).

The Statements consist of the following outputs:

- OCC 1 – Investigation and monitoring of compliance
- OCC 2 – Monitor Compliance with the Commissioner's Recommendations

#### **Management's Responsibility for the Statement of Outputs Delivered**

Management is responsible for the preparation and fair presentation of the Statement of Outputs Delivered in accordance with section 44(2) of the Public Management and Finance Law (2005 Revision). This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of the Statement of Outputs Delivered that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate criteria and measures to the outputs delivered. Management is required to present the following performance indicators for the Office of the Complaints Commissioner:

- 1) Description of outputs delivered for the year ended 30 June 2009.
- 2) Quantitative measures of the outputs delivered during the year ended 30 June 2009.
- 3) Qualitative measures of the outputs delivered during the year ended 30 June 2009.
- 4) Timeliness measure of the outputs delivered during the year ended 30 June 2009.
- 5) Location of delivery of outputs during the year ended 30 June 2009.
- 6) Financial measures of the actual costs incurred in respect of each output for the year ended 30 June 2009 compared to Budgeted Costs for each output as duly approved in the "Budget 2008/09".

#### **Auditor's Responsibility**

I was engaged to conduct my audit in accordance with International Standards on Auditing. Because of the matters described in the Basis for Disclaimer of Opinion paragraphs below, I do not express an opinion on the statement of outputs.

**Basis for Disclaimer for the Opinion of the Financial Statements:**

Management did not make adequate assertion as to whether the statements of outputs delivered are fairly presented and in full conformity with the Public Management and Finance Law (2005 Revision).

**Disclaimer of Opinion**

Because of the significance of the matters discussed in the preceding paragraph, I do not express an opinion on the statement of outputs delivered.



Alastair J. Swarbrick, MA (Hons), CPFA  
Auditor General

Cayman Islands  
July 28, 2011

## Statement of Outputs Delivered

OCC 1	Investigation and monitoring of compliance	\$738,750	
<b>Description</b> <ul style="list-style-type: none"><li>Deal with telephone enquiries and provide advice and guidance to the public that do not result in a formal investigation</li><li>Investigate written complaints made regarding injustice caused by improper, unreasonable or inadequate administrative conduct on the part of any Ministry/Portfolio and respective department, unit and section, Government owned company and statutory authority</li><li>Undertake public interest investigations</li></ul>			
<b>Measures</b>	<b>2008/9 Actual</b>	<b>2008/9 Budget</b>	<b>Annual Variance</b>
<b>Quantity</b>			
o No of enquiries	443	200-400	+43
o No of Complaints Investigated	44	40-80	+4
o No of Public Interest Investigations/Reports	4	2-5	-1
<b>Quality</b>			
o All complaints, enquiries and public interest investigations are to be investigated by suitably qualified and trained staff	100%	100%	0
o All reports to be signed off by Complaints Commissioner or in his absence the Acting Commissioner	100%	100%	0
o All complaints investigated in accordance with the parameters established by the Complaints Commissioner Law (2006 Revision)	100%	100%	0
<b>Timeliness</b>			
o All enquiries to be answered within 5 working days	95%	90-100%	+5%
o Decision to investigate complaint and if accepted, commencement of investigation of complaints within 1 month	30%	95-100%	-65%
o All investigations to be completed within 4 months of the investigation being commenced	90%	80-100%	+10%
o All reports/public interest investigation to be completed within 5 months of the request	90%	80-100%	+10%
<b>Location</b>	100%	100%	0%
Cayman Islands			
<b>Cost (of producing the output)</b>			
<b>Price (paid by Cabinet for the output)</b>		\$738,750	
Related Broad Outcome: Open, Transparent, Honest and Efficient Public Administration			



OCC 2	Monitor compliance with the Commissioner's recommendations		
<b>Description</b> <ul style="list-style-type: none"><li>Monitor compliance with the recommendations of the report of the Commissioner and the timescales specified in the report of action to be taken</li><li>Provide Special Reports to the Legislative Assembly where no adequate action has been made to remedy the injustice or evidence found of breach of duty, or criminal offence</li></ul>			
<b>Measures</b>	<b>2008/9 Actual</b>	<b>2008/9 Budget</b>	<b>Annual Variance</b>
<b>Quantity</b> <ul style="list-style-type: none"><li>Number of recommendations monitored</li><li>Number of Special Reports delivered to the Clerk of the Legislative Assembly Committee</li></ul>	78 3	20-50 2-4	+28 -1
<b>Quality</b> <ul style="list-style-type: none"><li>All monitoring carried out by suitably qualified and trained staff</li><li>All reports to be signed off by Commissioner or in his absence the acting commissioner</li><li>All recommendations monitored in accordance with the parameters established by the Complaints Commissioner Law (2006 Revision)</li></ul>	100%  100%  100%	100%  100%  100%	0  0  0
<b>Timeliness</b> <ul style="list-style-type: none"><li>Monitoring carried out on an on-going basis until recommendations are substantially implemented, or withdrawn or until they are included in a Special Report to the Legislative Assembly</li><li>Special Reports submitted to the Clerk of the Legislative Assembly Committee within 1 month of the Complaints Commissioner determining that no adequate action has been undertaken or evidence found of breach of duty, or criminal offence</li></ul>	95%  90%	95-100%  90-100%	+5%  0
<b>Location</b> Cayman Islands	100%	100%	0
<b>Cost (of producing the output)</b>	\$		
<b>Price (paid by Cabinet for the output)</b>	\$	\$246,250	
Related Broad Outcome: Open, Transparent, Honest and Efficient Public Administration			

**Part B**

**Ownership Performance Achieved During the Year**

### **3 Nature and Scope of Activities**

#### **General Nature of Activities**

The Office of the Complaints Commissioner is responsible for undertaking the investigatory functions prescribed by The Complaints Commissioner Law (2006 Revision).

#### **Scope of Activities**

- Receiving written complaints from the public and deciding whether they should be investigated;
- Appointing mediators to resolve complaints involving only minor maladministration;
- Investigating written complaints from the public and reporting to the complainant and government entity on the results of the investigation;
- Undertaking public interest investigations and reporting to the Legislative Assembly on the results of the investigation;
- Making recommendations for actions to be taken where injustice has occurred as a result of maladministration, monitoring compliance with those recommendations and, where no adequate action is taken, preparing a special report to the Legislative Assembly;
- Referring to the relevant person or body for their action any evidence of breach of duty, misconduct or criminal offence;
- Ascertain the inequitable or unreasonable nature or operation of any enactment or rule of law;
- Reporting annually to the Legislative Assembly on the performance of his/her functions.

#### **Customers and Location of Activities**

The OCC Oversight Committee of the Legislative Assembly is the customer.

The recipients of the services are the general public of the Cayman Islands.

Explanatory note: As a result of the work undertaken throughout the course of this year, the Office of the Complaints Commissioner believes that it has substantially complied with the nature and scope of its activities as outlined in our budget document.



#### **4 Strategic Ownership Goals**

The key strategic ownership goals for The Complaints Commissioner's Office in 2008/9 and the subsequent two years are as follows:-

1. An improved presence on the internet for informational purposes and to register complaints on line.
2. Implementation of performance appraisal system specified in Personnel Regulations.
3. Assist Legislative Assembly to amend Complaints Commissioner Law.
4. Provide bi-monthly reports to media on the work of OCC.
5. Increase public awareness through media interviews and advertising.
6. Complete in-house training on human rights.

#### **Achievement during Year**

The OCC achieved four of six of the strategic goals outlined in the 2008/09 Budget. Our efforts to establish credibility within the community continued to show positive results. It was important that the Entities/ Ministries and Portfolios establish an Internal Complaints Process through which they could address complaints against their organization. They could receive, investigate and resolve the complaints in an orderly manner. Surveys were done on the entities in 2005 and 2006. The OCC decided to launch an Audit of the implementation of ICP's by the entities in 2008. It started as an Extra-ordinary project and was completed as an Own Motions Report.

- 1) The OCC continued to improve our presence on the internet for informational purposes and to register complaints on line. This assisted the members of the community who were reluctant to come into the office or persons who wanted to know whether the OCC could assist them with complaints.
- 2) The OCC implemented the performance appraisal system specified in Personnel Regulations.
- 3) There was no amendment to the Complaints Commissioner Law during this period. The OCC continued to operate on the Complaints Commissioner Law (2006 Revision).
- 4) Reports were given to the media, but we were not able to complete the reports Bi-Monthly. This strategy was not complied with as specified in the Budget documents.
- 5) The OCC continued to increase public awareness through media interviews, advertising.

- 6) During the year in-house training on Human Rights continued. Dr. Epp met with Marilyn Conolly regarding Institutional support for Human Rights in August 2008.

Explanatory note: As a result of the work undertaken throughout the course of this year, the Office of the Complaints Commissioner believes that it has substantially complied with the nature and scope of its activities as outlined in our budget document.

**GOVERNMENT OF THE CAYMAN ISLANDS**

**Office of the Complaints Commissioner**

**ANNUAL FINANCIAL STATEMENTS  
FOR THE YEAR ENDED  
30th JUNE 2009**



## **Appendix: Financial Statements for the year ended 30 June 2009**

### **CONTENTS**

Statement of Responsibility for Financial Statements

Auditor General's Report

Statement of Financial Position

Statement of Financial Performance

Statement of Changes in Net Worth

Statement of Cash Flows

Notes to the Financial Statements



Office of the Complaints Commissioner  
Anderson Square – 4<sup>th</sup> Floor  
PO Box 2252 GT  
Grand Cayman  
Telephone (345) 943-2220  
Facsimile (943-2221)

27<sup>th</sup> July 2011

Alastair Swarbrick  
Auditor General  
Office of the Auditor General  
3<sup>rd</sup> Floor, Anderson Square  
George Town  
Grand Cayman

Dear Mr. Swarbrick,

In connection with your audit of the balance sheet of the Office of the Complaints Commissioner (the "Office") as of June 30, 2009 and the related statement of income and statement of cash flows and the statement of outputs for the year ended June 30, 2009, we recognize that obtaining representations from us concerning the information contained in this letter is a significant procedure in enabling you to form an opinion whether the financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the Office in accordance with International Public Sector Accounting Standards and the statement of outputs delivered in accordance with the Public Management and Finance Law.

**Representation on the Financial Statements and Statement of Outputs Delivered**

I recognize that, as members of management of the Office, we are responsible for the fair presentation of its financial statements and statement of outputs delivered. However I took up my appointment as Complaints Commissioner and Chief Officer on 17 August 2009 and the financial statements and statement of outputs delivered for the year 2007/2009 relate to a date more than 13 months before my appointment. As such, I do not make any

assertions as it relates to the financial statements and statement of outputs delivered for the Office of the Complaints Commissioner for the year ended 30 June 2009.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Paula Williams", with a long, sweeping horizontal flourish extending to the right.

---

Complaints Commissioner



## **Auditor General's Report**

### **To the Members of the Legislative Assembly of the Cayman Islands**

I was engaged to audit the accompanying financial statements of the Office of the Complaints Commissioner ("The Office") for the year ended 30 June 2009 which comprise the statement of financial position as at 30 June 2009, and the statement of financial performance, statement of changes in net worth and statement of cash flows for the year then ended and a summary of significant accounting policies and other explanatory notes in accordance with the provisions of Section 44(3) of the Public Management and Finance Law (2005 Revision).

#### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair representation of these financial statements in accordance with International Public Sector Accounting Standards. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

#### **Auditor's Responsibility**

I was engaged to conduct my audit in accordance with International Standards on Auditing. Because of the matters described in the Basis for Disclaimer of Opinion paragraphs below, however, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

#### **Basis for Disclaimer for the Opinion of the Financial Statements:**

Management did not make adequate assertions as to whether the statement of financial position, the statement of changes in net worth, the statement of financial performance, and the statement of cash flow are fairly presented and in full conformity with International Public Sector Accounting Standards and applied on a basis consistent with preceding years.

### Disclaimer of Opinion

Because of the significance of the matters discussed in the preceding paragraph, I do not express an opinion on the statement of financial position of the Office of the Complaints Commissioner for the year ended June 30, 2009 and of its financial performance and its cash flows for the year then ended in accordance with International Accounting Public Sector Standards.

A handwritten signature in dark ink, appearing to read 'A S Swarbrick', with a stylized flourish at the end.

Alastair Swarbrick, MA (Hons), CPFA  
Auditor General

Cayman Islands  
July 28, 2011

**OFFICE OF COMPLAINTS COMMISSIONER**  
**STATEMENT OF FINANCIAL POSITION**  
**AS AT 30 JUNE 2009**  
**(Expressed in Cayman Islands Dollars)**

Prior Year Actual CI\$000		Note	Current Year Actual CI\$000	Final/Original Budget CI\$000	Variance (Original vs. Actual) CI\$000
	<b>Current Assets</b>				
309	Cash and cash equivalents	2	538	194	(344)
254	Trade receivables	3	82	187	105
	Inventory	20			
<b>563</b>	<b>Total Current Assets</b>		<b>620</b>	<b>381</b>	<b>(239)</b>
	<b>Non-Current Assets</b>				
	Accounts receivable	3			
38	Property, plant and equipment	4	28	56	28
<b>38</b>	<b>Total Non-Current Assets</b>		<b>28</b>	<b>56</b>	
<b>601</b>	<b>Total Assets</b>		<b>648</b>	<b>437</b>	<b>(211)</b>
	<b>Current Liabilities</b>				
49	Trade payables	5		78	78
388	Other payables and accruals	5	450	97	(353)
	Bank Overdraft	2			
2	Employee entitlements	6	2	5	3
<b>439</b>	<b>Total Current Liabilities</b>		<b>452</b>	<b>180</b>	<b>(272)</b>
	<b>Non-Current Liabilities</b>				
19	Employee entitlements			19	19
<b>19</b>	<b>Total Non-Current Liabilities</b>			<b>19</b>	
<b>458</b>	<b>Total Liabilities</b>		<b>452</b>	<b>199</b>	<b>(253)</b>
<b>143</b>	<b>Net Assets</b>		<b>196</b>	<b>238</b>	<b>42</b>
	<b>Net Worth</b>				
143	Contributed capital		196	139	(57)
	Accumulated surpluses			99	99
<b>143</b>	<b>Total Net Worth</b>		<b>196</b>	<b>238</b>	<b>42</b>

The accounting policies and notes on pages form part of these financial statements.



**OFFICE OF COMPLAINTS COMMISSIONER  
STATEMENT OF FINANCIAL PERFORMANCE  
FOR THE YEAR ENDED 30 JUNE 2009  
(Expressed in Cayman Islands Dollars)**

Prior Year Actual CI\$000		Note	Current Year Actual CI\$000	Final /Original Budget CI\$000	Variance (Original vs. Actual) CI\$000
	<b>Revenue</b>	<b>7</b>	<b>916</b>	<b>985</b>	<b>69</b>
952	Sale of goods and services				
	Investment revenue				
	Donations				
5	Other revenue	7			
<u>957</u>			<u>916</u>	<u>985</u>	<u>69</u>
	<b>Total Revenue</b>				
	<b>Expenses</b>				
(441)	Personnel costs	8	(515)	(471)	44
(373)	Supplies and consumables	9	(360)	(492)	(132)
(16)	Depreciation	4	(12)	(8)	4
	Litigation costs	10			
(17)	Other expenses (Capital charge)	11	(29)	(14)	15
<u>847</u>			<u>916</u>	<u>(985)</u>	<u>69</u>
	<b>Total Expenses</b>				
<u>110</u>					
<u>-</u>	<b>Surplus or (Deficit) for the period</b>		<u>-</u>	<u>-</u>	<u>-</u>

The accounting policies and notes on pages      form part of these financial statements.

OFFICE OF COMPLAINTS COMMISSIONER  
STATEMENT OF CHANGES IN NET WORTH  
FOR THE YEAR ENDED 30 JUNE 2009  
(Expressed in Cayman Islands Dollars)

	Contributed Capital CIS\$000	Accumulated Surplus/(deficits) CIS\$000	Total Net worth CIS\$000	Final/Original Budget CIS\$000	Variance (Original vs. Actual) CIS\$000
Balance at 30 June 2007	143			115	(28)
Equity Investment from Cabinet					
Surplus/(deficit) for the period (2007/08)					
Balance at 30 June 2008	143			115	(28)
Equity Adjustment	53				
Surplus/(deficit) for the period 2008/9)					
Balance at 30 June 2009	196			238	42

The accounting policies and notes on pages form part of these financial statements.

**OFFICE OF COMPLAINTS COMMISSIONER**  
**STATEMENT OF CASH FLOWS**  
**FOR THE YEAR ENDED 30 JUNE 2009**  
**(Expressed in Cayman Islands Dollars)**

Prior Year Actual CI\$000		Note	Current Year Actual CI\$000	Final/Original Budget CI\$000	Variance (Original vs. Actual) CI\$000
	<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
	<i>Receipts</i>				
920	Outputs to Cabinet		1,087	985	(102)
	Outputs to other government agencies				
	Sale of goods and services - third party				
	<i>Payments</i>				
(441)	Personnel costs		(515)	(471)	44
(244)	Supplies and consumables		(312)	(492)	(180)
(17)	Other payments		(29)	(14)	15
<u>218</u>	<b>Net cash flows from operating activities</b>	12	<u>231</u>	<u>8</u>	<u>(223)</u>
	<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
	Purchase of property, plant and equipment		(2)	(15)	(13)
	<b>Net cash flows from investing activities</b>		<u>(2)</u>	<u>(15)</u>	<u>(13)</u>
	<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>				
(110)	Equity Investment				
<u>(110)</u>	<b>Net cash flows from financing activities</b>				
108	<b>Net increase/(decrease) in cash and cash equivalents</b>		229	(7)	(236)
201	Cash and cash equivalents at beginning of period		309	201	(108)
<u>309</u>	<b>Cash and cash equivalents at end of period</b>		<u>538</u>	<u>194</u>	<u>(344)</u>

The accounting policies and notes on pages    form part of these financial statements.



**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**Description and principal activities**

The office of the Complaints Commissioner is a Government owned entity as defined by section 2 of the Public Management and Finance Law (2008 Revision) and it is domiciled in the Cayman Islands.

Its principal activities and operations include all activities carried out in terms of the outputs purchased by the office of the Complaints Commissioner as defined in the Annual Plan and Estimates for the Government of Cayman Islands for the financial year ending 30 June 2009.

In addition, the Ministry has reported the activities and trust monies that it administers on behalf of Cabinet.

The principal office of the Complaints Commissioner is located at 202 Piccadilly Centre 28 Elgin avenue George Town, Grand Cayman. As of 30 June 2009 The Complaints Commission had 4 employees (2008: 4)

**Note 1: Significant Accounting Policies**

These financial statements have been prepared in accordance with International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants and its International Public Sector Accounting Standards Board using the accrual basis of accounting. Where additional guidance is required, International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board are used.

There are no known accounting standards that have been adopted by the IPSAS Board for use in future years that will have a significant impact on these financial statements other than enhanced disclosures.

The accounting policies set out below have been applied consistently to all periods presented in these financial statements.

**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**Note 1: Significant Accounting Policies (continued)**

**(a) Basis of Preparation**

These financial statements have been prepared on a going concern basis and the accounting policies set out below have been applied consistently to all periods presented. The financial statements are presented in Cayman Islands dollars and the measurement base applied to these financial statements is the historical cost basis.

Changes in Accounting Policies

When presentation or classification of items in the financial statements is amended or accounting policies are changed, comparative figures are restated to ensure consistency with the current period unless it is impracticable to do so.

The presentation of the prior year financial statements has been changed to include a comparison of actual amounts with amounts in the original and final budget as required by IPSAS 24 including explanations of material difference between original budget and actual amounts.

The details and presentation of the Statement of Changes in Net Worth has been changed to show greater detail and to reflect changes in accounting policies and corrections of errors and omissions.

Segment reporting has been included in accordance with IPSAS 18.

**(b) Reporting Period**

The reporting period is the year ended 30 June 2009.

**(c) Budget Amounts**

The original budget amounts for the financial year are as presented in the 2008/2009 Annual Budget Statement and approved by the Legislative Assembly. The Final Budget is those budget amounts approved in Supplementary Budget.

**d) Judgments and Estimates**

The preparation of financial statements is in conformity with International Public Sector Accounting Standards that requires judgments, estimates, and assumptions affecting the application of policies and reported amounts of assets and liabilities, revenue and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the reporting period and in any future periods that are affected by those revisions.



**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**(e) Revenue**

Revenue is recognised in the accounting period in which it is earned. Revenue received but not yet earned at the end of the reporting period is recognised as a liability (unearned revenue).

The office of the Complaints Commissioner derives its revenue through the provision of services to Cabinet, to other agencies in government and to third parties. Revenue is recognised at fair value of services provided.

**(f) Expenses**

Expenses are recognised when incurred on the accrual basis of accounting. In addition, an expense is recognized for the consumption of the estimated fair value of contributed goods and services received.

**(g) Operating Leases**

Operating lease payments are recognised as an expense on a straight-line basis over the lease term, where this is representative of the pattern of benefits to be derived from the leased property. Lease payments under operating lease, net of lease incentives received, are recognised as expenses on a straight-line basis over the lease term. Lease incentives received are recognised evenly over the term of the lease as a reduction in rental expense.

**(h) Capital Charges**

Capital charges on the net assets due to the Cayman Islands Government are recognized as an expense in the period in which they are incurred.

**(i) Cash and Cash Equivalents**

Cash and cash equivalents include cash on hand, cash in-transit and bank accounts with a maturity of no more than three months from the date of acquisition.

When there is objective evidence that a financial asset or group of financial assets is impaired the losses are recognised as an expense in the Statement of Financial Performance.

**(j) Prepayments**

The portion of recognised expenditure paid in advance of receiving services has been recognised as a prepayment and is classified as accounts receivable in these financial statements.

**(k) Property, Plant and Equipment**

Property, plant and equipment, is stated at historical cost less accumulated depreciation. Items of property, plant and equipment are initially recorded at cost. Where an asset is acquired for nil or nominal consideration, the asset is recognized initially at fair value, where fair value can be reliably determined, and as revenue in the Statement of Financial Performance in the year in which the asset is acquired.



**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**Note 1: Significant Accounting Policies (continued)**

**(k) Property, Plant and Equipment (continued)**

Depreciation is expensed on a straight-line basis at rates calculated to allocate the cost or valuation of an item of property, plant and equipment (other than land); less any estimated residual value, over its estimated useful life. Leasehold improvements are depreciated either over the unexpired period of the lease or the estimated useful lives of the improvements, whichever is shorter.

<u>Asset Type</u>	<u>Estimated Useful life</u>
• Computer Equipment	3 – 10 years
• Office equipment and furniture	3 – 25 years
• Motor vehicles	3 – 20 years
• Other equipment	5 – 20 years

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at year end. Assets that are subject to amortization are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amounts. The recoverable amount is the higher of the asset's fair value less costs to sell and its value for use in service.

**Disposals**

Gains and losses on disposals of property, plant and equipment are determined by comparing the sale proceeds with the carrying amount of the asset. Gains and losses on disposals during the year are included in the Statement of Financial Performance.

**(l) Employee Benefits**

Employee entitlements to salaries and wages, annual leave, long service leave, retiring leave and other similar benefits are recognised in the Statement of Financial Performance when they are earned by employees. Employee entitlements to be settled within one year following the year-end are reported as current liabilities at the amount expected to be paid.

Pension contributions for employees of the Portfolio are paid to the Public Service Pension Fund and administered by the Public Service Pension Board (the "Board"). Contributions of 12% - employer 6% and employee 6% are made to the fund by the Complaints Commission..

Prior to 1 January 2000 the Board operated a defined benefit scheme. With effect from 1 January 2000 the Board continued to operate a defined benefit scheme for existing employees and a defined contribution scheme for all new employees. Obligations for contribution to defined contribution retirement plans are recognised in the Statement of Financial Performance as they are earned by employees. Obligations for defined benefit retirement plans are reported in the Consolidated Financial Statements for the Entire Public Sector of the Cayman Islands Government.

**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**Note 1: Significant Accounting Policies (continued)**

**(m) Financial Instruments**

The office of the Complaints Commissioner is party to financial instruments as part of its normal operations. These financial instruments include bank accounts, short term deposits, trade and accounts receivables and trade and accounts payable, all of which are recognised in the Statement of Financial Position.

**Classification**

A financial asset is classified as any asset that is cash, a contractual right to receive cash or another financial asset, exchange financial instruments under conditions that are potentially favourable. Financial assets comprise of cash and cash equivalents and prepayments.

A financial liability is any liability that is a contractual obligation to deliver cash or another financial instrument or to exchange financial instruments with another enterprise under conditions that are potentially unfavourable. Financial instruments comprise of accounts payable and accrued expenses.

**Recognition**

The office of the Complaints Commissioner recognises financial assets and financial liabilities on the date it becomes party to the contractual provisions of the instrument. From this date, any gains and losses arising from changes in fair value of the assets and liabilities are recognised in the statements of financial performance.

**Measurement**

Financial instruments are measured initially at cost which is the fair value of the consideration given or received. Subsequent to initial recognition all financial assets are recorded at historical cost, which is considered to approximate fair value due to the short-term or immediate nature of these instruments.

Financial liabilities are subsequently measured at amortised cost, being the amount at which the liability was initially recognised less any payment plus any accrued interest of the difference between that initial amount and the maturity amount.

**n) Contingent Liabilities and Assets (including guarantees)**

Contingent liabilities and assets are reported at the point the contingency becomes evident. Contingent liabilities are disclosed when there is a possible obligation or present obligations that may, but probably will not, require an outflow of resources. Contingent assets are disclosed if it is probable that the benefits will be realised.



**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**(n) Contingent Liabilities and Assets (including guarantees) (continued)**

**De-recognition**

A financial asset is de-recognition when the Office of the Complaints Commission realises the rights to the benefits specified in the contract or loses control over any right that comprise that asset. A financial liability is derecognised when it is extinguished, that is when the obligation is discharged, cancelled, or expired.

**(o) Foreign Currency**

Foreign currency transactions are recorded in Cayman Islands dollars using the exchange rate in effect at the date of the transaction. Foreign currency gains or losses resulting from settlement of such transactions are recognised in the Statement of Financial Performance.

At the end of the reporting period the following exchange rates are to be used to translate foreign currency balances:-

- Foreign currency monetary items are to be reported in Cayman Islands dollars using the closing rate;
- Non-monetary items which are carried in terms of historical cost denominated in a foreign currency are reported in Cayman Islands dollars using the exchange rate at the date of the transaction; and
- Non-monetary items that are carried at fair value denominated in a foreign currency are reported using the exchange rates that existed when the fair values were determined.

**(p) Comparative Figures**

The presentation of the prior year financial statements has been changed to include a comparison of actual amounts with amounts in the original and final budget. Comparative figures are restated to ensure consistency with the current period unless it is impracticable to do so.

**Note 2: Cash and cash equivalents**

Cash and cash equivalents include cash on hand and bank accounts in the name of Portfolio maintained at Royal Bank of Canada. As at 30 June 2009 the Office of the Complaints Commissioner held no restricted cash balances (30 June 2009: \$0). No interest was earned during the year on the amounts held in these bank accounts (30 June 2009: \$0)

Actual Prior Year	Description	Foreign Currency	Exchange Rate	Actual Current Year
CI\$000		\$000		CI\$000
309	CI\$ Operational Current Account	516		516
	US\$ Operational Current Account	27	.83	22
	Payroll Current Account			
309	<b>TOTAL</b>			<b>538</b>



**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**Note 3: Trade receivables and other receivables**

At year end all overdue receivables have been assessed and appropriate provisions made. The provision for doubtful debts has been calculated based on expected losses for the office of the Complaints Commissioner and review of specific debtors. Expected losses have been determined based on an analysis of the Portfolio losses in previous periods.

Actual Prior Year CI\$000	Trade Receivables	Actual Current Year CI\$000	Final/Original Budget CI\$000	Variance (Original vs. Actual CI\$000)
230	Sale of goods and services Outputs to Cabinet	82	177	95
19	Outputs to other government agencies		10	10
5	Other			
	Less: provision for doubtful debts			
<b>254</b>	<b>Total trade receivables</b>	<b>82</b>	<b>187</b>	<b>105</b>

Actual Prior Year CI\$000	Other Receivables	Actual Current Year CI\$000	Final/Original Budget CI\$000	Variance (Original vs. Actual CI\$000)
-	Advances (salary, Official Travel, etc)	-	-	-
	Dishonoured cheques			
-	Interest receivable			
	Other			
	<b>Total other receivables</b>			

	Trade Receivables	Prior Year Impairment	Net	Gross amount	Current Year
	CI\$000	CI\$000	CI\$000	CI\$000	CI\$000
Current		-	-	-	
Past due 1-30 days	82	-	-	-	
Past due 31-60 days					
Past due 61 and above					
Past due 90 and above					
<b>Total</b>	<b>82</b>				

**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**Note 3: Trade receivables and other receivables (continued)**

Changes in the provision of doubtful debts:

Actual Prior Year CIS\$000	Description	Actual Current Year CIS\$000
	Balance at 1 July	
	Additional provisions made during the year	
	Receivables written off during the year	
	Balance at 30 June	

As of June 30, 2009, accounts receivable are all due within one year from financial position date.

**Note 4: Property, plant and equipment**

	2009				
	Vehicles \$000	Furniture and fittings \$000	Computer hardware and software \$000	Office equipment \$000	Other Assets \$000
<u>Cost</u>					
At July 1, 2008		20	34	30	84
Additions		2			2
Disposals/transfers					
At June 30, 2009		22	34	30	886
<u>Accumulated depreciation</u>					
At July 1, 2008		6	22	18	46
Depreciation charge for the year		1	7	4	12
At June 30, 2009		7	29	22	58
Net book value at June 30, 2009		15	5	8	28

OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009

Note 4: Property, plant and equipment (continued)

	2008					
	Vehicles \$000	Furniture and fittings \$000	Computer hardware and software \$000	Office equipment \$000	Other Assets \$000	Total \$000
<u>Cost</u>						
At July 1, 2007		20	34	30		84
Additions						
Disposals/transfers						
At June 30, 2008		20	34	30		84
<u>Accumulated depreciation</u>						
At July 1, 2007		5	14	11		30
Depreciation charge for the year		1	8	7		16
At June 30, 2008		6	22	18		46
Net book value at June 30, 2008		14	12	12		38

Note 5: Trade payables, other payables and accruals

Actual Prior Year		Actual Current Year	Final/Original Budget	Variance (Original vs. Actual
Ci\$000		Ci\$000	Ci\$000	Ci\$000
	Creditors	442		(442)
	Creditors Ministries/Portfolios			
49	Accrued Expenses	8	79	71
	Payroll deductions			
49	<b>Total trade payables, other payables and accruals</b>	<b>450</b>	<b>79</b>	<b>(371)</b>

Trade and other payables are non-interest bearing and are normally settled on 30-day terms.



**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**Note 6: Employee entitlements**

Actual Prior Year		Actual Current Year	Final/Original Budget	Variance (Original vs. Actual)
CI\$000		CI\$000	CI\$000	CI\$000
2	<i>Current employee entitlements are represented by:</i>			
	Annual Leave	2	6	4
2	Total current portion	2	6	4
	<i>Non-current employee entitlements are represented by:</i>			
	Retirement and long service leave			
	Total employee entitlements	2	6	4

The retirement and long-service leave entitlements are calculated based on current salary paid to those employees who are eligible for this benefit.

**Note 7: Revenue**

Actual Prior Year	Revenue type	Actual Current Year	Final/Original Budget	Variance (Original vs. Actual)
CI\$000		CI\$000	CI\$000	CI\$000
952	Outputs to Cabinet	916	985	69
	Outputs to other government agencies			
	Fees and charges			
952	Total sales of goods and services	916	985	69

**Note 8: Personnel costs**

Actual Prior Year	Description	Actual Current Year	Final/Original Budget	Variance (Original vs Actual)
CI\$000		CI\$000	CI\$000	CI\$000
	Salaries, wages and allowances	383		
	Health care	39		
	Pension	47		
	Other personnel related costs	46		
441	Total Personnel Costs	515	471	(44)

**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**Note 9: Supplies and consumables**

Actual Prior Year	Description	Actual Current Year	Final/Original Budget	Variance (Original vs. Actual)
CI\$000		CI\$000	CI\$000	CI\$000
373	Supplies and Materials			
	Purchase of services	97		
	Lease of Property and Equipment	59		
	Utilities	52		
	Insurance	3		
	Interdepartmental expenses			
	Travel and Subsistence	23		
	Other	126		
<b>373</b>	<b>Total Supplies &amp; consumables</b>	<b>360</b>	<b>492</b>	<b>132</b>

**Note 11: Capital charge**

A capital charge is payable to the Portfolio of Finance and Economics as required by *Public Management and Finance Law, (2005 Revision)* section 41(5). The Financial Secretary annually sets the capital charge rate which was 0% as no capital was budgeted for in 2009-10 (2009: 5.95%). The capital charge is recorded semi-annually, on December 31 and June 30 and calculated by multiplying the capital charge rate by the net assets/net worth amount. For 2008-09, the capital charge is \$0K (200: \$17K).

**Note 12: Reconciliation of net cash flows from operating activities to surplus**

Actual Prior year	Description	Actual Current year	Final/Original Budget	Variance (Original vs. Actual)
CI\$000		CI\$000	CI\$000	CI\$000
110	Surplus/(deficit) from ordinary activities			
	Non-cash movements	12	8	(4)
16	Depreciation expense			
	Changes in current assets and liabilities:			
(30)	(Increase)/decrease in receivables	171		(171)
122	(Increase)/(decrease) in payables	46		(46)
	(Increase)/decrease in inventories			
<b>218</b>	<b>Net cash flows from operating activities</b>	<b>229</b>	<b>8</b>	<b>(221)</b>

**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**Note 13: Contingent liabilities and assets**

	Beginning Balance	Additions	Disbursements	Adjustments	Ending Balance
<b>Guarantees</b>					
Item 1 heading					
Item 1 description/nature/timing of outflow/uncertainties of amounts and timing					
Item 2 heading					
Item 2 description/nature/timing of outflow/uncertainties of amounts and timing					
<b>Total Quantifiable Guarantees</b>	-	-	-	-	-
<b>Legal Proceedings and Disputes</b>					
Item 1 heading					
Item 1 description					
Item 2 heading					
Item 2 description					
<b>Total Legal Proceedings and Disputes</b>	-	-	-	-	-
<b>Other Contingent Liabilities</b>					
Item 1 heading					
Item 1 description					
Item 2 heading					
Item 2 description					
<b>Total Other Contingent Liabilities</b>	-	-	-	-	-
<b>Total contingent liabilities</b>	-	-	-	-	-
<b>Contingent Assets</b>					
Item 1 heading					
Item 1 description					
Item 2 heading					
Item 2 description					
<b>Total Other Contingent Assets</b>	-	-	-	-	-



**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**Note 14: Commitments**

Prior Year Actual CIS\$000	Type	One year or less CIS\$000	One to five Years CIS\$000	Over five Years CIS\$000	Total CIS\$000
	<b>Capital Commitments</b>				
-	Property, plant and equipment	-	-	-	-
-	Other fixed assets	-	-	-	-
-	Other commitments (list separately if material)	-	-	-	-
-	<b>Total Capital Commitments</b>	-	-	-	-
	<b>Operating Commitments</b>				
	Non-cancellable accommodation leases				
	Other non-cancellable leases				
	Non-cancellable contracts for the supply of goods and services				
	Other operating commitments				
	<b>Total Operating Commitments</b>				
	<b>Total Commitments</b>				

The Office of The Complaints Commissioner is on a month to month lease.

**NOTE 15: Explanation of major variances against budget**

Explanations for major variances for Judicial Administration performance against the original budget are as follows:

***Statement of financial performance***

***Cabinet revenue***

Revenue from cabinet was \$69k lower than budget

***Personnel Costs***

Personnel costs were \$44K above budget.

**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**NOTE 15: Explanation of major variances against budget (continued)**

*Supplies and consumables*

Supplies and consumables were \$132K below budget

*Depreciation*

Depreciation expenses were \$4K higher than budget at \$12K.

**Statement of financial position**

*Cash and cash equivalents*

The actual year-end cash balances were \$344K above budget at \$538k. The principle reason for the increase was a reduction in receivables

*Debtors and other receivables*

The actual year-end debtors and other receivables balances were lower than the original budget due to a reduction in the amounts due from Cabinet

*Creditors and other payables*

Creditors, accruals and other payables were \$353K higher than the budget. The principle reason for the variance was poor budgeting

**Statement of cash flows**

*Cash from operating activities*

The increase in cash from operating activities of \$223k is due decrease in receivables and lower operating expenses.

**NOTE 16: Related party and key management personnel disclosures**

**Related party disclosure**

The office of the Complaints Commissioner is a wholly owned entity of the government from which it derives a major source of its revenue. Judicial Administration and its key management personnel transact with other government entities on a regular basis. These transactions were provided free of cost during the financial year ended 30 June 2009 and were consistent with normal operating relationships between entities and were undertaken on terms and conditions that are normal for such transactions.

**Key management personnel**

Key management personnel, defined as Ministers of the Government, are also considered to be related parties.

There is one full-time equivalent personnel considered at the senior management level. The total remuneration includes: regular salary, allowances, pension contributions and health insurance contributions. Total remuneration for senior management in 2008-09 was \$127k (2008-09: \$124k). There were no loans made to key management personnel or their close family members in 2008-09 (2007-08: \$0).

**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**NOTE 17: Financial instrument risks**

The office of the Complaints Commissioner is exposed to a variety of financial risks including credit risk and liquidity risk. The Portfolio's risk management policies are designed to identify and manage these risks, to set appropriate risk limits and controls, and to monitor the risks and adhere to limits by means of up to date and reliable information systems. These risks are managed within the parameters established by the Financial Regulations (2008 Revision).

Credit risks

Credit risk refers to the risk that a counter-party will default on its contractual obligations resulting in financial loss to the Office of the Complaints Commissioner. Financial assets which potentially expose the Portfolio to credit risk comprise cash and cash equivalents and accounts receivable.

The office of the Complaints Commissioner is exposed to potential loss that would be incurred if the counterparty to the bank balances fails to discharge its obligation to repay. All bank balances are with one financial institution located in the Cayman Islands which management, considers to be financially secure and well managed.

Credit risks The office of the Complaints Commissioner is also exposed to a significant concentration of credit risk in relation to accounts receivable, significant of which are due from other Government entities. No credit limits have been established. As at 30 June 2008 and 2009, no provision for doubtful debts has been made on these receivable as none of these accounts are impaired and management considers these debts to be recoverable in full.

The carrying amount of financial assets recorded in the financial statements represents the Office of the Complaint's maximum exposure to credit risk. No collateral is required from debtors.

Liquidity risk

Liquidity risk is the risk that the Office of The Complaints Commissioner is unable to meet its payment obligations associated with its financial liabilities when they are due.

The ability of the office of the Complaints Commissioner to meet its debts and obligation is dependent upon its ability to collect the debts outstanding to the Office of The Complaints Commissioner in a timely basis. In the event of being unable to collect its outstanding debts, it is expected that the Government would temporarily fund any shortfalls the office of the Complaints Commissioner would have with its own cash flows. As at 30 June 2008 and 2009, all of the financial liabilities were due within three months of the year end dates.



**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**NOTE 17: Financial Instruments – fair values (continued)**

As at 30 June 2010 and 2009, the carrying values of cash and cash equivalents, accounts receivable, accounts payable and employee entitlements approximate their fair values due to their relative short-term maturities.

Fair values are made at a specific point in time, based on market conditions and information about the financial instrument. These estimates are subjective in nature and involve uncertainties and matters of significant judgment and therefore cannot be determined with precision. Changes in assumptions, economic conditions and other factors could cause significant changes in fair value estimates.

**NOTE: 18 Segment reporting**

	Office of the Complaints Commissioner \$000				
Revenue					
Outputs from Cabinet	916				
Sale of goods and services					
Other revenue					
<b>Total Revenue</b>	916				
Expenses					
Salaries and Wages	515				
Other expenses	401				
<b>Total Expenses</b>	916				
<b>Surplus/ (Deficit) from Operating Activities</b>	-	-	-	-	-
<b>Net Surplus/ (Deficit)</b>	-	-	-	-	-
<b>Assets</b>					
Current Assets		-	-	-	-
Fixed Assets		-	-	-	-
<b>Total Assets</b>		-	-	-	-
<b>Liabilities</b>					
Current Liabilities		-	-	-	-
Non-current Liabilities	-	-	-	-	-

The Complaints Commission does not maintain a separate Statement of Financial Position or Statement of Financial Performance for each segment.

**OFFICE OF COMPLAINTS COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2009**

**NOTE: 19 Appropriations used**

Appropriation Description (including Output number and name)	Amount Appropriated	Appropriation Used	Variance
OCC 1			

Total