

Office Location



Office of the Ombudsman

Public Workers Union Building,
Tanteen, St. George's, Grenada





OFFICE OF THE OMBUDSMAN
Public Workers Union Bldg. Tanteen, St. George's, Grenada

13th March, 2013

H.E. Sir Carlyle Glean GCMG,
Governor-General
Office of the Governor-General
Carenage
St. George's

Your Excellency,

I have the honour to submit to you, the Third Annual Report of the activities of Office of the Ombudsman, for the period 1st January, 2012 to 31st December, 2012.

This Report is made pursuant to Section 32(3) of the Ombudsman Act 24 of 2007.

Yours respectfully,

A.ARGAR ALEXANDER
OMBUDSMAN



OFFICE OF THE OMBUDSMAN
Public Workers Union Bldg. Tanteen, St. George's, Grenada

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The President
The Senate
St. George

The Speaker
House of Representatives
St. George

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Table of Contents

Office Location	1
Letters of Transmittal	2-3
Ombudsman's Message	5
Explanation of Logo	6
Ombudsman's Staff	7
Vision, Mission & Core values	8
Analysis of Complaints	9
• Complaints in 2012	10
• Complaints from 2011	15
• Comparison of Status of complaints	17
• Complaints from 2010	18
• Visits to office in 2012	19
• Comparison : Residence of Complainants	23
• Forms of contact with office	25
Sample of complaints	26
• General Comments	31
Activities	32
Appendices	34
(1) Report on the Commonwealth Secretariat seminar	35
(2) Report on seminar in Curacao	38
(3) List Of Public Authorities	40
(4) Excerpts From Act #24/2007	42

Ombudsman's Message



The Ombudsman is indeed happy to present his third annual report on the business of the Office of the Ombudsman.

The office continued to seek out and investigate issues of injustice and unfairness meted out to members of the public by public authorities.

More and more persons continued to make use of the services of the office during 2012.

The Ombudsman noticed that many individuals visited seeking advice on issues which were not complaints. He was very glad to have been of some help to those persons. The analysis of the tables showed prevalence of that particular activity.

There were also many instances where persons came seeking assistance on issues which fell outside of the Ombudsman's legal jurisdiction.

The Ombudsman continued to experience some degree of challenge in attempting to bring resolution to situations presented to him by complainants. Public Officers, by and large, ought to continue working assiduously to ensure that their efficiencies become more significant and that they hold themselves to higher standards of discipline thereby enhancing the public trust.

Though the Ombudsman could see some efforts being made to becoming more accountable and a seeking towards ensuring that persons are dealt with in a professional way; unfortunately there were instances where the Ombudsman could have seen the makings of arrogance on the part of some senior managers. He did not believe that this augured well for the public service and its expected levels of service to all members of the public.

During the latter quarter of the year the Office launched a media campaign. It was very noticeable that during that final quarter there was a significant increase in the number of visits to the office

The office continued to work towards increasing its efficiency and enhancing the level of service it provided to customers as it sought to advance the cause of good governance in our fair country.

Explanation of Logo



The Ombudsman's role is to provide protection for all the people and to shield them from injustice and unfairness in their dealings with public authorities.

The colours of the national flag red, green and gold, as are included in the Logo.

The **RED** represents the fervour of the people, their courage and vitality; their burning aspiration to be free.

The **GOLD** speaks to wisdom; also, the sun; islands in the sun; the warmth and friendliness of their people.

The **GREEN** recalls the fertility of the land, the lush vegetation and the island's agriculture.

The **SEVEN STARS** represent the seven parishes of the state of Grenada and emphasize the breadth of the Ombudsman's jurisdiction in dealing with complaints from all corners of the society.

The **SHIELD** is the symbol of protection against abuse and discrimination.

The **CIRCLES**, as seen in such logos far and wide, are representative of the Ombudsman.

The **GREY** of the shield symbolises the neutrality and impartiality of the Ombudsman.

Staff, Office of the Ombudsman



STAFF (L to R): Mr. A. Argar Alexander, Mrs. J. Lessey, Ms. B. Baptiste, Mr. W. Hercules.



VISION

Furthering of good governance by protection of the individual from injustice and unfairness.

MISSION STATEMENT

Providing effective service through complaints handling procedures that are timely, ensuring always the highest level of confidentiality and impartiality.

CORE VALUES

Independence – The office operates with autonomy and the absence of control from Government, political or other parties.

Confidentiality – The office believes in ensuring that its business is conducted in the most professional and confidential manner and without any possibility of compromise.

Impartiality – The office shall always hold true to the practice of neutrality and objectivity to arrive at the truth and thus not seek to take sides in any investigation being undertaken.

Integrity – The office seeks to ensure that all its activities are carried out in ways that bespeak high levels of professionalism, trust, honesty and in an atmosphere of concern for the rights and feelings of all.

The office values a caring and team-oriented workplace that promotes fair and professional treatment of all its officers.

Thus, in consideration of all of the above the Office of the Ombudsman pledges always to carry out its activities with **accountability** and **transparency**.

ANALYSIS OF COMPLAINTS



TABLE I: COMPLAINTS IN 2012

PUBLIC AUTHORITY	STATUS OF COMPLAINTS MADE					
	Total	Closed	Ongoing	Discontinued	Advice/ Referrals	Beyond Jurisdiction
Dept. of Public Administration	1	1				
Grenada Board of Tourism	1	0	1			
Grenada Ports Authority	3	3				
Grenada Postal Corporation	1	1				
Royal Grenada Police Force	20	10	7	1	1	1
Min of Agriculture and Fisheries	3	0	3			
Magistracy	1	1				
T.A. Marryshow Community College	1	0	1			
Min. Of Education and Human Resource	7	4	3			
Min. Of Finance and Planning	4	3	1			
Min. Of Health and Environment	3	2	1			
Min. Of Housing and Lands	5	1	4			
Min. Of Labour and Social Services	13	2	10	1		
Min. Of Social Development	2	1	1			
Min. Of Works and Public Utilities	13	5	8			
National Lotteries Authority	1	1				
National Water and Sewage Authority	2	2				
SUBTOTAL	81	37	40	2	1	1
NPA 1*	(16)*					(16)*
NPA 2*	(24)*				(24)*	
GRAND TOTAL	121	37	40	2	25	17

The first part of the table showed a total of eighty-one complaints with thirty-seven closed and forty ongoing. Complaints were lodged against seventeen (17) public authorities, among these being nine Ministries.

Complaints in 2012



The public authority which stood out with twenty (20) of the eighty-one cases or 25% was the **Royal Grenada Police Force**. Fifty percent (10/20) of those complaints were closed by the culmination of the year's activities. This was commendable, though the Ombudsman was of the view that with an even greater sense of urgency on the part of the Police many more of those complaints could have been resolved.

There was a feeling that some problems or complaints could be wished away because they brought into sharp focus instances of questionable practices carried out by some members of the Force. Serious efforts needed to be made to ensure that all ranks of the RGPF underwent specific training in issues relative to ethics and integrity in order to enhance their professionalism and the furtherance of justice and fairness.

The Ministries of Labour and Works each accounted for thirteen (13) of the 81 complaints or 16.05%. However, the former was only able to resolve two (2) of those issues compared to five (5) for the latter.

The Ombudsman had great difficulty in understanding why it continued to take public authorities such extensive periods of time to deal with some of the matters before them.



He wished to record his concerns regarding an aspect of the Labour Code. It appeared that the Labour Commissioner's hands were tied since he could not easily have an employer brought before the Court for failing to abide by promises made to pay termination benefits to former workers. It was disheartening for workers who were sent home by their employers to have to be going back and forth to the Ministry without any certainty of resolution to their problems.

The Ministry of Works, on the other hand, seemed to have had some financial challenges since it found it difficult to honour commitments made to individuals, over the year, to undertake remedial works or to pay outstanding debts. There were also other matters related specifically to its mandate but which did not happen because of scarce resources.

Complaints in 2012 (cont'd)

The Ministry of Education and Human Resource accounted for seven (7) of the Eighty-one (81) complaints with four of these having been resolved. There was a complaint regarding basic travelling allowances which came before the Ombudsman- a case which affected a number of officers within that Ministry. It would appear that there was a reluctance to deal with the problem. The complaint centered around possible discrimination and unfairness against one set of officers who apparently did not travel less than others who were enjoying superior levels of remuneration in regard to those allowances. Such inequality bespoke injustice within the operations of the Public Service and needed to be put right.



The Ombudsman wished to remind all that the World Bank Institute defined **good governance** as:

“the extent to which a country seeks to make its operations as efficient and effective as possible; providing services which are second-to-none to its clientele; and generally ensuring their security and well-being.”

Public authorities needed to measure their modus operandi against the six indicators of good governance as provided by the Institute and determine whether or not collectively and individually they were enhancing good governance by the ways in which they operated.

The Ombudsman found that as he interviewed complainants some seemed to have had the feeling that officers in many of the public authorities demonstrated some evidence of laissez-faire behavior. If that was really so then the **index of good governance** might well be affected negatively by the reality of the activities on the work floor. For example, the World Bank Institute used six indicators of good governance, one of which was **Government Effectiveness** and defined as

“measuring the quality of public services, the quality of the Civil Service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.”

Public officers would do well to give serious consideration to those issues and the quality of service they provided to the public.

Further examination of **Table I** (Page 10) would show that there were two entries named NPA1 and NPA2. These were not complaints against particular public authorities. They therefore had to be treated separately. It was important to have captured them since they represented part of the day-to-day activities of the office.

NPA1 represented those instances where visitors came to the office with the expectation that the Ombudsman would provide assistance regarding their complaints. Those complaints however turned out to be beyond the legal jurisdiction of the Ombudsman and interviewees were regrettably informed that the Ombudsman was not in a position to handle such matters. He none-the-less did not turn away any individuals who had come and who formed that subset of “complainants”. They were still given a listening ear.

It was necessary though for the Ombudsman to inform them of the legal constraints under which he operated. Three such constraints from the Ombudsman Act #24 are presented hereunder.

Time limitation : Section 22 (1) c states that:

*A complaint to the Ombudsman about any administrative action of a public authority shall be made **within one year after the day** the complainant first had notice of the administrative action.*

Matters not subject to investigation: [Schedule II Section 20(6)] .

The section stated in part that the Ombudsman was debarred from investigation into the following:

The commencement or conduct of civil or criminal proceedings in any court of law in Grenada or before any international court or tribunal.

Any decision or action of the Governor-General or the Public Service Commission relating to the appointment, removal or disciplinary control of any person.

Some of the matters referred to earlier would have been subject to those constraints.

There were also a number of issues which the Ombudsman considered to be private in nature. These did not involve public authorities but were between individuals or even institutions and as such could not be legally handled by him.

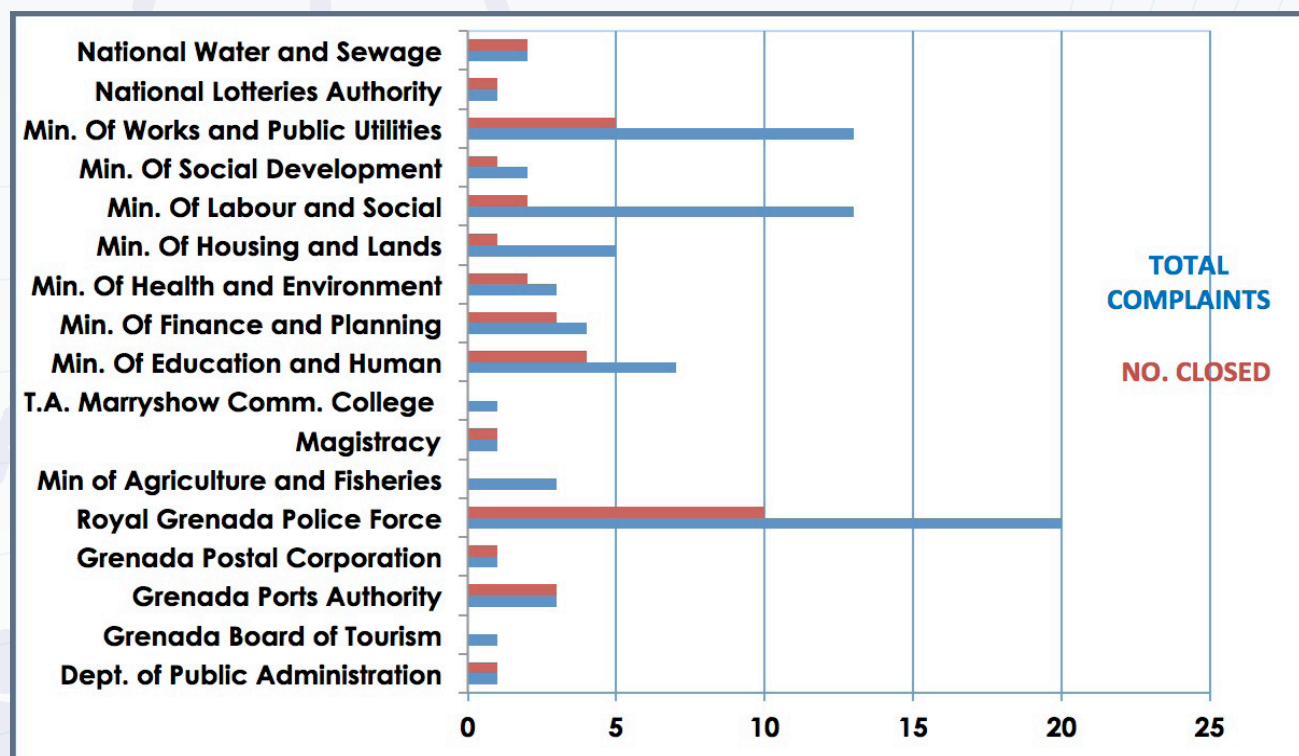
NPA2 referred to situations where persons visited the office generally seeking advice from the Ombudsman. They were therefore not complaints. In most cases those individuals were interviewed, at the end of which they might have been pointed in certain directions or given specific advice. There were twenty-four such instances.

The Ombudsman was of the opinion that many of those sought out the services of the office because they were not in a position to pay the legal fees required of members of the legal fraternity. Further and in general it was felt that the particular issues did not necessarily have legal ramifications per se and as such the Ombudsman was happy to have been of service to those persons. However, in those situations where he felt the individuals needed to seek proper legal advice then they were so informed and advised.

The grand total of one hundred twenty-one (121) represented all the initial **visits** made to the office by persons in three categories: those who had genuine complaints; those who sought advice; and those who had matters which fell outside of the Ombudsman's statutory mandate.

A chart representative of the complaints in Table I is shown below.

GRAPH OF COMPLAINTS IN 2012



The graph showed, as discussed earlier, that the RGPF had the highest number of complaints, followed by the Ministries of Works and Labour.

COMPLAINTS FROM 2011

Some complaints from 2011 had not been finalized in that year and as such had to be rolled over into 2012. Table II below showed that there were fifty-seven of these. During the course of 2012 twenty-six complaints were closed with twenty-five still being incomplete at the end of 2012.

TABLE II: ROLLOVERS FROM 2011 INTO 2012

PUBLIC AUTHORITY	STATUS OF COMPLAINTS MADE					
	Total	Closed	Ongoing	Discontinued	Advice/Referrals	Beyond Jurisdiction
Grenada Airports Authority	1	0	1			
Grenada Housing Authority	1	1				
Royal Grenada Police Force	17	8	6	2		1
Min of Agriculture and Fisheries	1	0	1			
Min. Of Education and Human Resource	1	0	1			
Min. Of Finance and Planning	4	0	3	1		
Min. Of Health and Environment	7	3	4			
Min. Of Housing and Lands	8	4	3	1		
Min. Of Legal Affairs	1	0	1			
Min. Of Labour and Social Services	4	2	1	1		
Min. Of Tourism and Comm. Development	1	1				
Min. Of Works and Public Utilities	8	5	3			
National Insurance Scheme	1	0	1			
Prime Minister's Ministry	1	1				
TOTAL	56	25	25	5	0	1

The four public authorities which had the majority of these outstanding complaints were: the Royal Grenada Police Force (17), the Ministries of Works (8), Housing (8)

and Health(7); with 8, 5, 4 and 3 of those complaints respectively being closed during 2012.

The Ombudsman continued to be concerned with the tardiness and lethargy with which some of these cases were being handled by public authorities.

A few of the complaints against the Ministry of Works had to do with finances to which the Senior Manager could not commit.

The Ombudsman was of the view though that there was urgent need to begin changing the culture of government offices making them become more efficient and accountable.

CHART SHOWING STATUS OF 2011 COMPLAINTS
ROLLED OVER INTO 2012

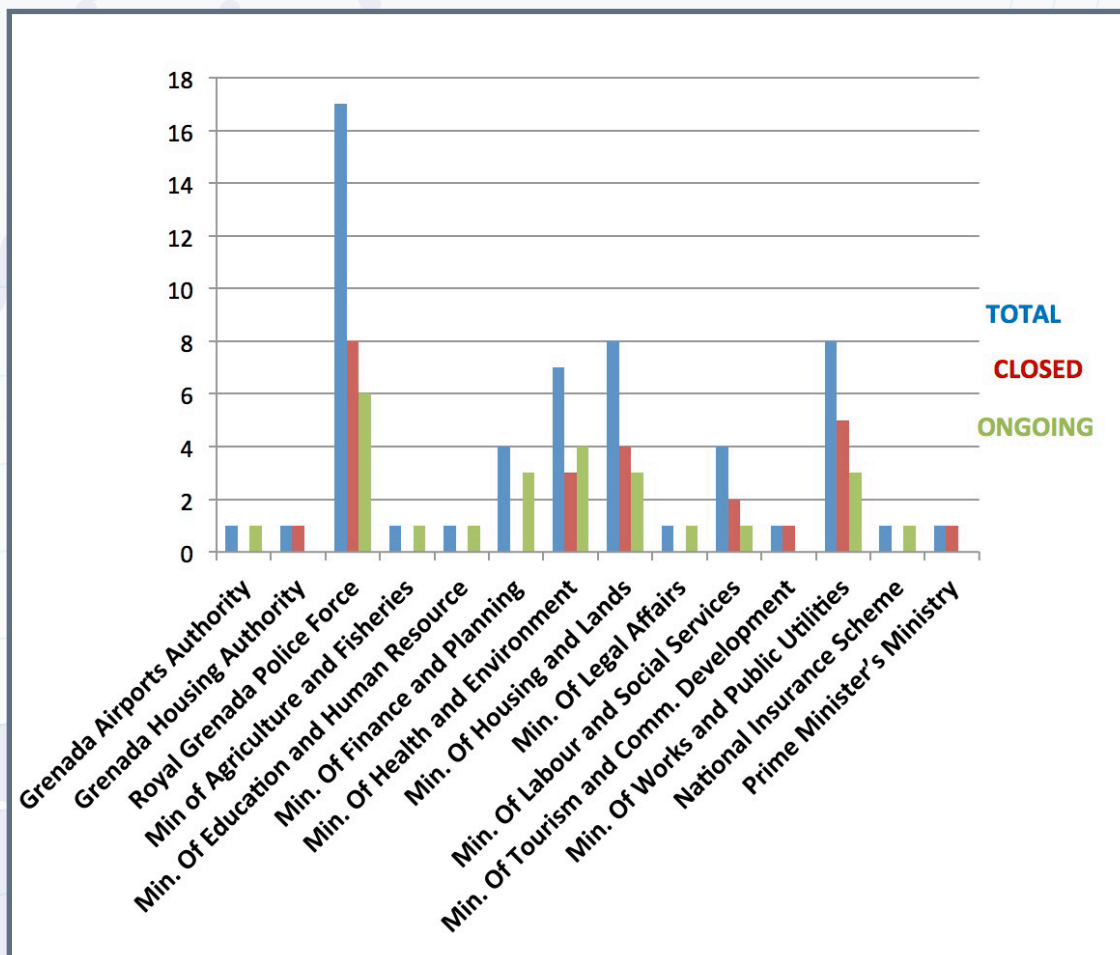


TABLE III: COMPARISON OF
STATUS OF COMPLAINTS: 2012 vs 2011

YEAR	Total	Closed	Ongoing	Discontinued	Advice	Beyond Jurisdiction
2012	81*	37	40	2	1	1
2011	82	23	56	1	1	1

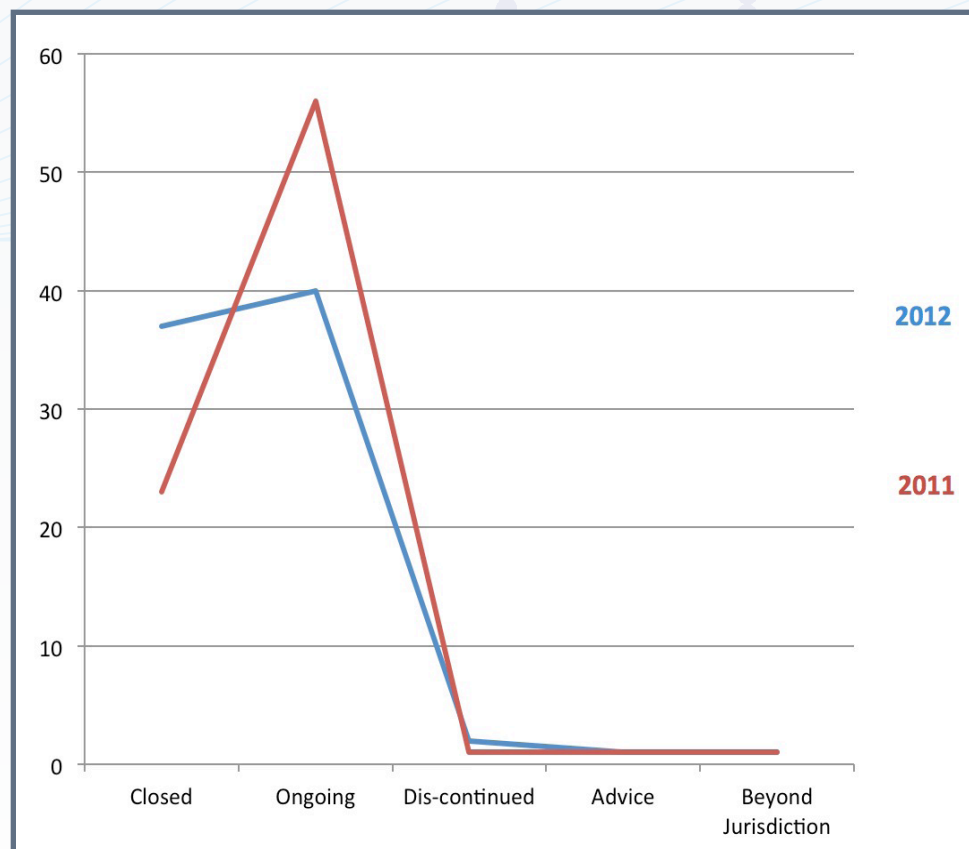
Analysis determined that 37 of 81 complaints or 45.7% were closed in 2012 as compared to 23 of 82 or 28% in 2011; an increase of nearly 61% over 2011.

The ongoing cases in 2012 were 40. This was 71% of the number for 2011.

Eighty-one* rather than 121 was used in the calculations for 2012(see Table I) since, as earlier discussed, there was a total of forty instances which could not have been properly considered as complaints against public authorities.

The graph below showed the pictorial comparison between the two years' statistics.

GRAPH: COMPARISON OF COMPLAINTS BY YEAR



COMPLAINTS FROM 2010

There were eleven complaints which dated back to 2010. The table below shows the spread of these complaints.

TABLE VI: STATUS OF
ROLLOVERS FROM 2010

PUBLIC AUTH.	TOTAL	CLOSED	ONGOING
Royal Grenada Police Force	2	2	0
Ministry of Housing & Lands	2	0	2
Ministry of Legal Affairs	1	0	1
Ministry of Labour & Social Security	2	2	0
Physical Planning Unit	3	0	3
Grenada Rural Enterprise Project	1	1	0
TOTAL	11	5	6

Of the eleven complaints five were closed during the year with six still ongoing.

The Ombudsman would like to raise some concerns regarding the ongoing complaints. Two of the matters had to do with the Physical Planning Unit. The first of these involved a complaint against the PPU and its refusal of permission to build in an area close to the airport. More than one year ago, it was drawn to the attention of the Ombudsman that policy direction had to be given by the Government. It is now obvious to him that no move had been made by the parent Ministry to formulate and submit on the advice of the PPU the policy issue to the Cabinet for its direction.

A second complaint had to do with refusal of permission by the PPU to allow the construction of a building close to the seashore in an outer parish. An appeal was made by the potential property owner. A Tribunal, as mandated by law, then had to be put in place by the Minister, to review such cases. The matter was raised by the Ombudsman with the PPU and also the parent Ministry. It was yet to be resolved since the Tribunal had not been constituted.

In the Ombudsman's view there has been much intransigence and tardiness in regard to those two matters.

VISITS TO OFFICE IN 2012

The following table shows the disaggregation of the visits made to the office during the twelve months of 2012.

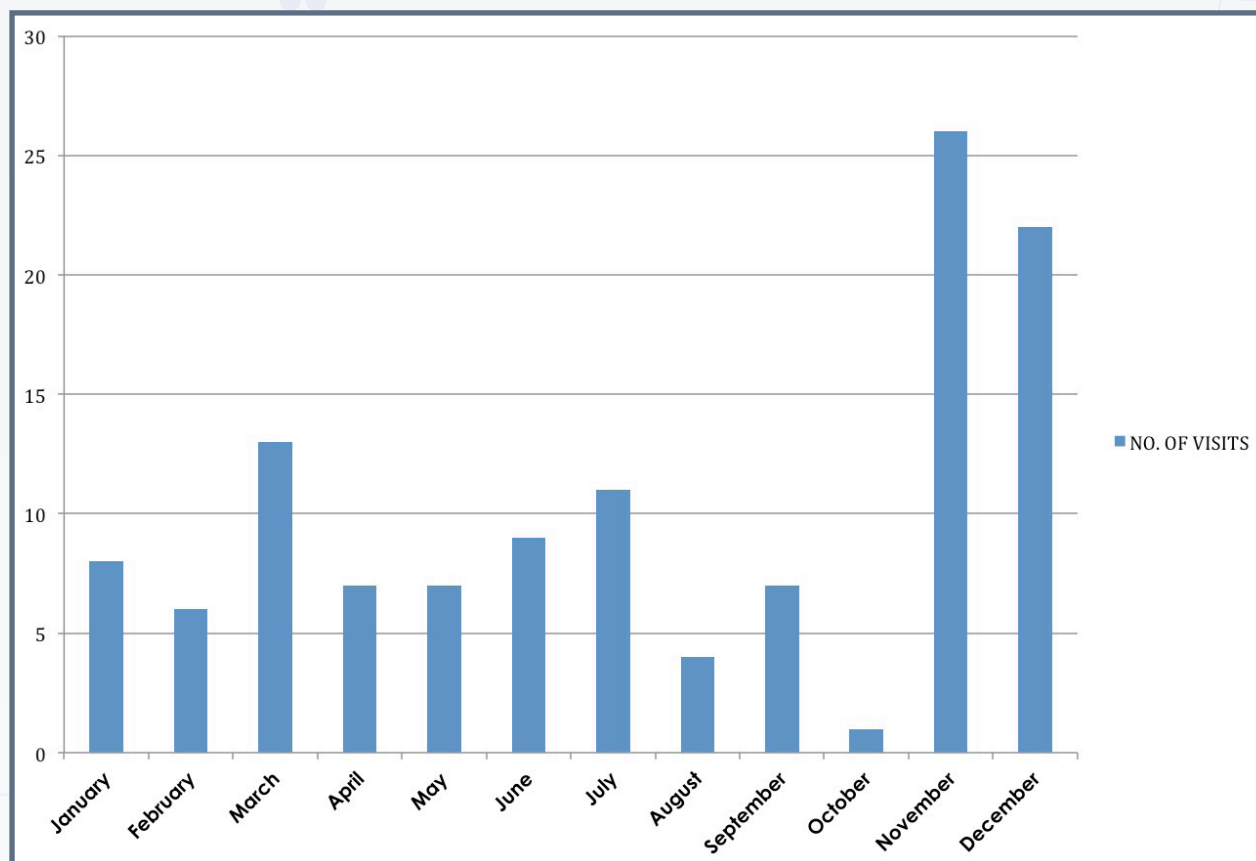
Table V: VISITS TO OFFICE IN 2012

MONTH	NO. OF VISITS
January	8
February	6
March	13
April	7
May	7
June	9
July	11
August	4
September	7
October	1
November	26
December	22
TOTAL	121

Both the above table and graph on the following page showed a steep increase or climb in the final sixth of the year. During late October the office undertook a media promo in order to further sensitise the populace about the work of the office. This was run on many of the media houses during November and December. The total number of visits during that period was forty-eight or about 40% of the total visits for that year.

Many of the persons who came to the office during that period spoke of having seen the promo or at least being informed by friends that the office was doing business.

GRAPH V: VISITS TO OFFICE IN 2012



The totals for both years were 121 and 82 respectively with year 2012 having a significant increase of 47.65% over that of 2011.

On average there were thirty visits per quarter in 2012 as against twenty in 2011.

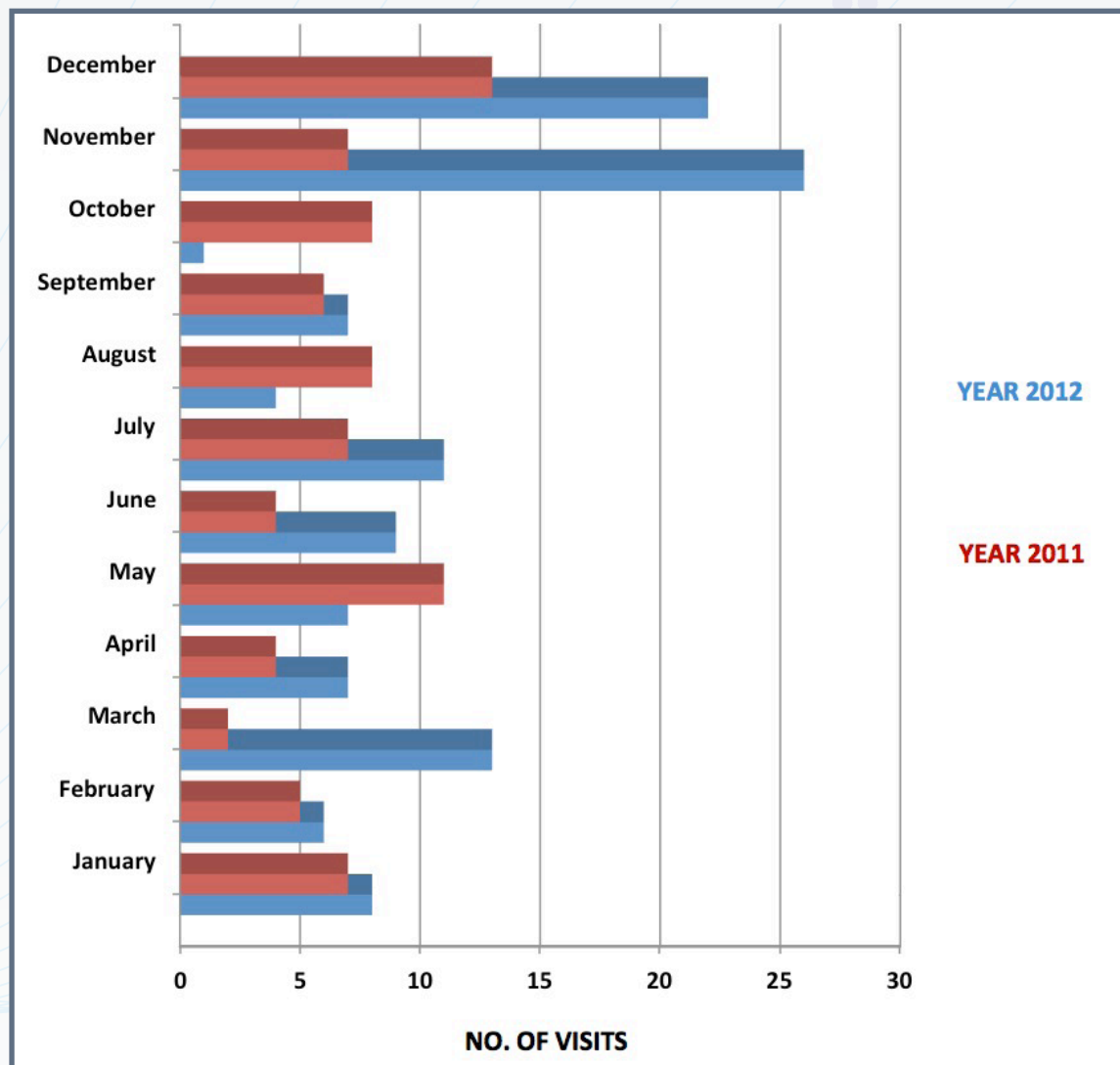
Though both years registered the largest number of visits during the fourth quarter, it was very noticeable that that of 2012 was significantly higher than that of its counterpart in 2011; and in fact showed a 75% increase.

TABLE VI: VISITS TO OFFICE BY YEAR

MONTH	2012	2011
JANUARY	8	7
FEBRUARY	6	5
MARCH	13	2
APRIL	7	4
MAY	7	11
JUNE	9	4
JULY	11	7
AUGUST	4	8
SEPTEMBER	7	6
OCTOBER	1	8
NOVEMBER	26	7
DECEMBER	22	13
TOTAL	121	82

Office of the Ombudsman > Analysis of Complaints

The graph hereunder provides a pictorial representation of the data as presented.



WHERE COMPLAINANTS RESIDED

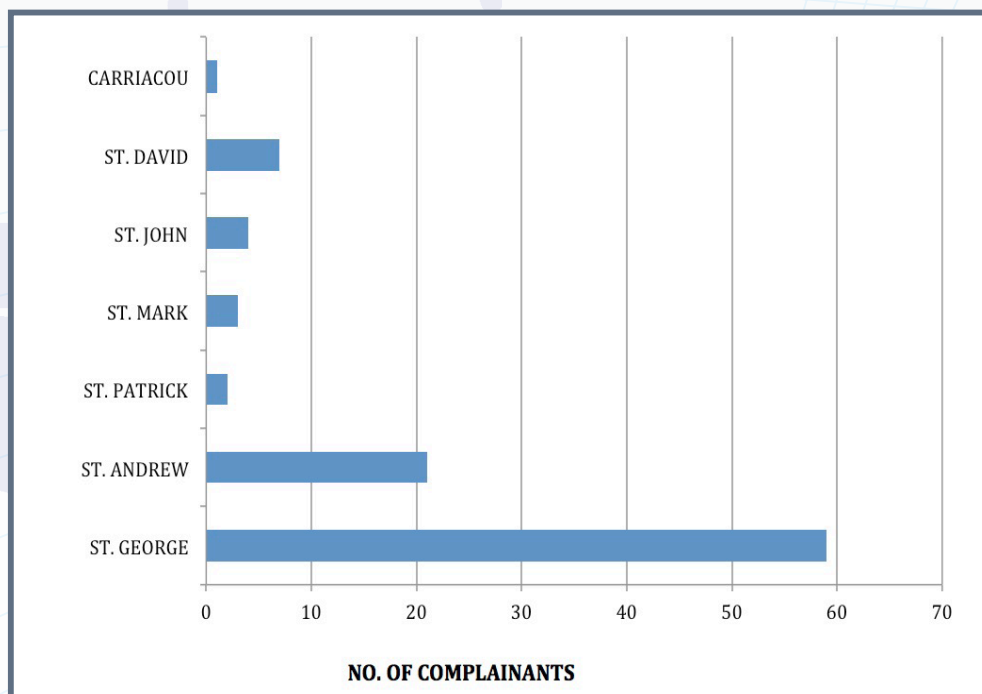
The following table (Page 22) shows the spread of complainants who were in contact with the office based on the areas of the country in which they resided generally. It is very noticeable that most of them (61%) lived within the parish of St. George, in which the office is located. If the nine which were beyond the Ombudsman's jurisdiction were discounted, then 48% of those complaints made by St. George residents were closed by year end.

TABLE VII: RESIDENCE OF COMPLAINANTS IN 2012

PARISH	TOTAL	DISCONT'D	CLOSED	ONGOING	ADVICE	BEYOND LEGAL JURISDICTION
ST. GEORGE	59	2	24	23	1	9
ST. ANDREW	21		7	11		3
ST. PATRICK	2		1			1
ST. MARK	3		1	2		
ST. JOHN	4		2	2		
ST. DAVID	7		1	2		4
CARRIACOU	1		1			
TOTAL	97	2	37	40	1	17

Notably, residents of St. Andrew were beginning to make fair use of the services of the office. This was commendable. Using the same formula as previous, 7 of 18 or 39% of the complaints were closed. The hope is that more and more persons from the wider communities would avail themselves of those services.

The graph below showed pictorially the data.



COMPARING RESIDENCE OF COMPLAINANTS FOR YEARS 2012 AND 2011

The table hereunder compares complainants by where they resided during 2011 and 2012 when complaints were made to the office.

TABLE VIII : RESIDENCE OF COMPLAINANTS 2012 VS 2011

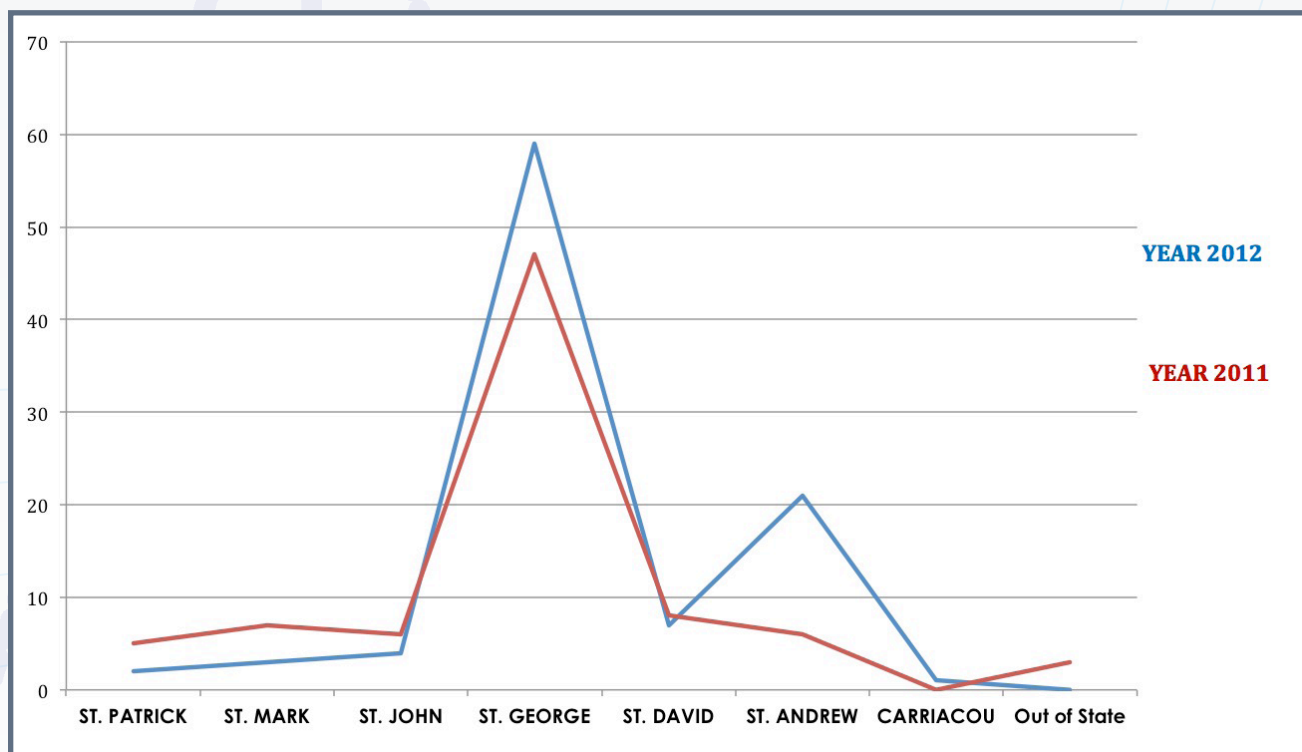
PARISH	NO. OF COMPLAINANTS	
	2012	2011
ST. PATRICK	2	5
ST. MARK	3	7
ST. JOHN	4	6
ST. GEORGE	59	47
ST. DAVID	7	8
ST. ANDREW	21	6
CARRIACOU	1	0
Out of State	0	3
TOTAL	97	82

Generally the increase in the totals could be attributed to complaints emanating from residents of St. George. The numbers for the other parishes, with the exception of St Andrew, did not show any significant changes.

COMPARING RESIDENCE OF COMPLAINANTS FOR YEARS 2012 AND 2011 (Cont'd)

The graph hereunder showed that apart from the slightly higher peak in 2012 both years generally followed the same configuration which suggested that there were no real significant movement towards other parishes as far as complainants and their residences were concerned.

GRAPH: RESIDENCE OF COMPLAINANTS 2012 VS 2011



FORMS OF INITIAL CONTACT WITH OFFICE

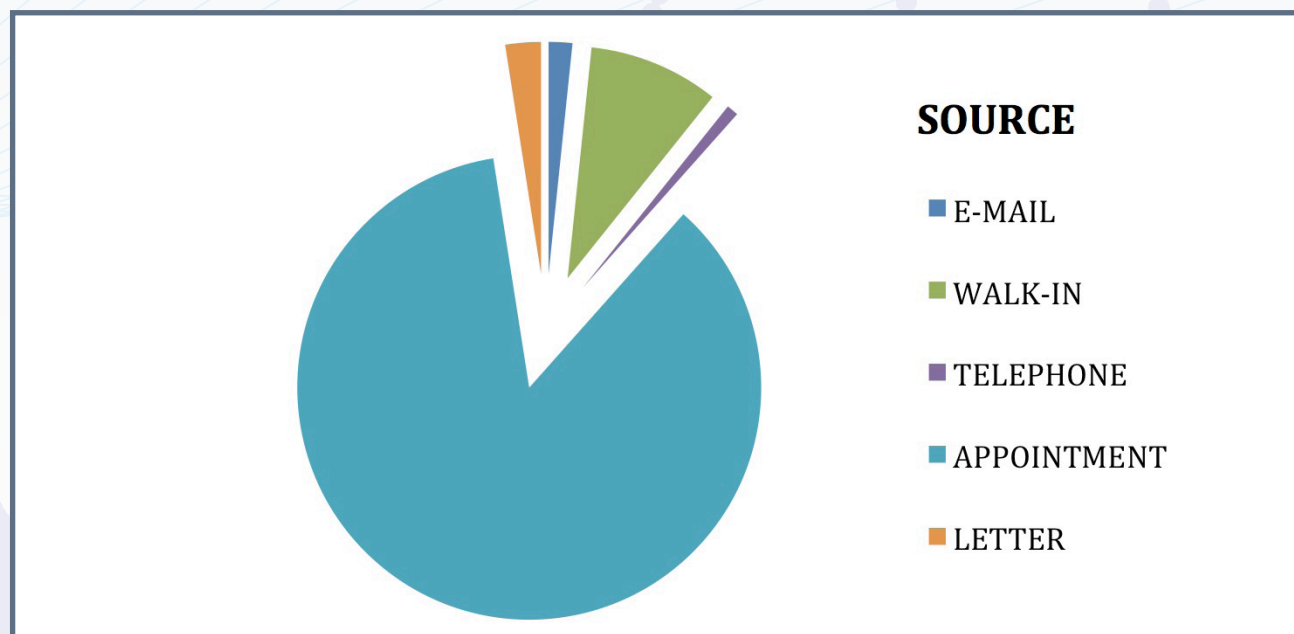
Individuals made initial contact with the office in various ways. The table above provides information on these sources through which information was provided to the office in order to enable its activities.

TABLE IX: FORMS OF INITIAL CONTACT WITH OFFICE

EMAIL	WALK-IN	TELEPHONE	APPOINTMENT	LETTER	TOTAL
2	11	1	104	3	121

Though most of the initial contact were through appointments it is noticeable that 11 or 9% was associated with walk-ins. Whenever persons showed up at the Office for the first time to lodge complaint or to seek advice, they would normally be accommodated even if the Ombudsman was in the process of carrying out interviews. In those situations they would be asked to exercise some patience, if they were not too busy. This approach was seen as very important since persons might have travelled from afar and would have had to expend sums for bus fares, in the face of scarce resources.

GRAPH : FORMS OF INITIAL CONTACT



Sample of Complaints





CASE 1 :PHYSICAL PLANNING UNIT

This case remained unresolved after three years. The matter was brought to the attention of the Ombudsman while he was still very new to the office of the Ombudsman in 2009.

Excavation work was undertaken by an individual without the approval of the Physical Planning Unit. Such activity had seemingly contributed to the loss of integrity of a large concrete dwelling house in the area adjacent to where such works had taken place.



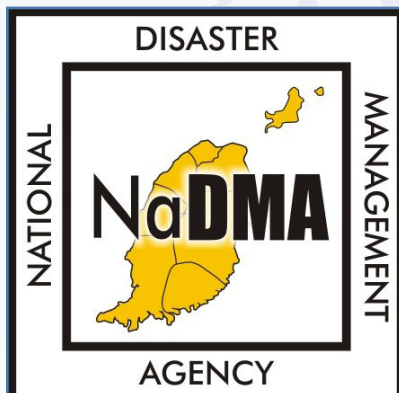
POSITION OF HOUSE IN THE SOUTH

The Physical Planning Unit has not been sufficiently proactive in moving to have the matter resolved so that after three years nothing of consequence had been undertaken. God forbid that the house should shift significantly from its present uncertain state. Government then would be forced to compensate the owner for loss of dwelling. The Physical Planning Unit from all appearances had failed to ensure that the person who undertook the excavation works committed to putting the situation right.

The Ombudsman had been told that the matter was before the court. In fact the complainant indicated that the Attorney-General had been dealing with the matter.

Three years have gone and justice continued to be denied the property owner. The Ombudsman has viewed this as unacceptable, unprofessional and a travesty of justice.

Postscript: Word reached the office that the matter had been thrown out by the Court. It was apparent that the complainant had never been alerted that the matter was going to be heard.



CASE 2: NADMA

NADMA has been instrumental in the construction of an Operations Centre in the Marigot, St. John area. The Complainant who resided in the immediate vicinity of the construction project came to the office to state (record) her utter disgust at the lack of consideration shown to her by the project personnel. The Ombudsman understood that the Ministry of Works who would normally oversee the construction of government projects did not seem to know much of the goings-on.



DOWNPIPE FROM GUTTERING



ACCESS TO COMPLAINANT'S RESIDENCE

When it rained the outflow from the area and the VERY large volume of water from the guttering on the roof of the new building travelled down to the residence of the complainant. The Ombudsman and the Investigations Officer were able to verify that the development had been undertaken with no consideration being given to the problems which were being undergone by the complainant.

That was compounded by the fact that NADMA was the ultimate culprit - a body which was mandated to deal with matters to alleviate or ameliorate disasters in our country. The Ombudsman thought it very pathetic that such an eventuality would have been allowed to take place in the first place.

Such an attitude spoke very loudly about the duplicity that existed in our fair country. There are too many double-standards.



CASE 3 : NATIONAL LOTTERIES AUTHORITY

Another matter which came before the Ombudsman concerned allegations of sexual harassment. This was new to the office, and in a way, possibly new to the social context of our society wherewith an individual was moved to complain about such matter.

The Ombudsman therefore investigated the matter, interviewed a number of persons associated with the Statutory Body. He found that there apparently was some measure of intrigue within the Institution doubled with questions of trust and lack of professionalism and loyalty. Suffice it to say that the Ombudsman made certain recommendations which the Board and Minister in their wisdom would have read through and beyond in order to have arrived at appropriate actions and positions in the interest of the individuals and also the organization.

The ability to read between and beyond the lines is a quality learned by those who would take the time to educate themselves in the more esoteric notions of the English Language.

CASE 4: MINISTRIES OF WORKS AND AGRICULTURE

A citizen had a portion of his property acquired in 2006 to facilitate the construction of a bridge in the Grenville Vale section of the country. After repeated visits to the Ministry of Works the gentleman has had no satisfaction by way of compensation for his property.

That bridge was constructed to facilitate the movement of traffic during the 2007 Cricket World Cup held here in Grenada.



CASE 4: MINISTRIES OF WORKS AND AGRICULTURE (Cont'd)

The Ombudsman has been engaging both Ministries of Works and Lands on his behalf but to date without much success.



BRIDGE TO GRENVILLE VALE

There was an apparent resistance to take ownership of the situation by the Ministries of Works and Agriculture at the time. To say the least that bespoke injustice towards the owner of the property and a disregard for the rights of citizens.

GENERAL COMMENTS

The Ombudsman experienced the unfortunate evidence of disrespect on the part of a senior manager within the public service. Having made an arrangement to sit with the manager more than four weeks prior, a couple of days before the actual meeting he was informed by the manager's secretary that the meeting had to be postponed and unilaterally so by the senior manager. Such behaviour bespoke a degree of impropriety with which the Ombudsman was unhappy.

There is a seeming tendency for some senior managers to give the appearance that they are above the law and that, as mentioned by one such individual, the Ombudsman should find better things to take up his time rather than resorting to writing letters to them.

The people of Ghana have a word in their language which they translate as humility. That word is "**hay-shi-bah**" which when transliterated means "**bringing oneself down.**" It would do the Public Service a world of good if senior managers were to begin using in a very concrete way, such an idea.

The Ombudsman was of the view that there was evidence of arrogance among a class of such officers. Such a disposition did not in any way auger well for the social development of our fair country. The message needed to be repeated time and time again that nobody was above the law regardless of the status which one may enjoy at a particular time.

On the other end of the continuum was seeming evidence of lethargy demonstrated by or through the apparent laid back disposition of some senior officers. Regrettably this was a complaint made to the Ombudsman by some of the complainants.

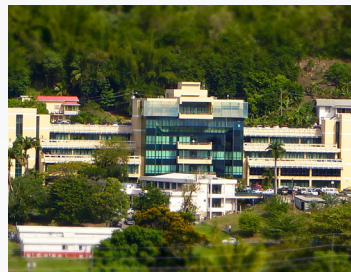
Demonstrating respect for our institutions through the ways we worked at our tasks was by far the best way in ensuring that our country will grow and develop; recognizing all the while that charity began at home.

Another matter of grave concern to the Ombudsman is the fact that there are among us some members of certain professional bodies who do great injustice to those citizens coming before them for assistance. It is obvious that some lack the bare essentials of Christian living and do not seem to subscribe to the tenets of ethic nor integrity.

Some of our citizens are hurting from the wounds being inflicted on them by those who call themselves professionals when their dealings are in fact illegal and reeks of duplicity and dishonesty.

Justice and fairness will continue to suffer grievously at the hands of such persons; but it must be remembered that in God's own time, in the fullness of time He shall call us to account for what we are doing to our brothers and sisters who are unable to deal with matters themselves. The prophet Amos (5:24) reminds us that we must "let justice fall down like waters and righteousness like a mighty stream." This must happen if our country is to become a place where everyone enjoys peace and tranquility. Peace cannot reign where there is no justice.

Activities

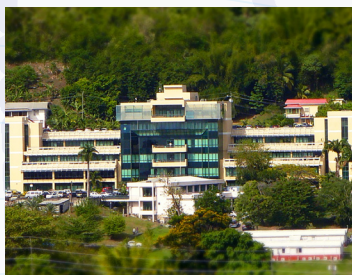


SHARPENING
your **TEETH**
ADVANCED INVESTIGATIVE TRAINING

Activities

1. In February the Ombudsman hosted a dinner for Ombudsmen who attended the Commonwealth Regional Seminar on Universal Periodic Review.
2. In April the Ombudsman delivered the feature address at the 2nd Public Service Awards Ceremony.
3. The Ombudsman made a presentation on the functions of the office to senior public officers during an administrative law training workshop.
4. The office initiated a media promotion through < GBN / VOG/ MTV/ GIS > in November.
5. Discussions were held with Prof. Randolph McIntosh on whether the existence of the office could be reflected in the provisions of the draft constitution of the Commonwealth of Grenada.
6. Printing of two thousand brochures in March.

Appendices



REPORT ON THE COMMONWEALTH SECRETARIAT SEMINAR ON UPR FOLLOW-UP AND IMPLEMENTATION 20th - 21st February, 2012

Introduction

A workshop entitled “*Commonwealth Secretariat Seminar on UPR Follow-up and Implementation*” was held on 20th-21st February, 2012 at the Grand Beach Hotel, St. George's, Grenada.

The seminar was attended by government officials, members of civil society organizations and representatives of Ombudsman offices in the Caribbean. Participants from the various jurisdictions in the Caribbean had their countries' human rights record reviewed under the Universal Periodic Review (UPR) process. The last review was conducted in 2010 and 2011.

Overview and Objective

Universal Periodic Review (UPR) is a process under which the human rights records of states are reviewed and assessed by the United Nations Human Rights Council. The objective is to improve the human rights situation in all countries and to address human rights violations wherever they occur.

The review is carried out by a “working group” of 47 states elected from membership of the United Nations Human Rights Council.

In preparing for review, member states are expected to conduct a consultation with civil societies, including national human rights institutions, non-governmental organizations (NGOs) and other key stakeholders.

The aims of the Grenada seminar were to:

- Support and encourage delegates from Jamaica, Guyana, Trinidad and Tobago, Antigua and Barbuda, St. Vincent, St. Lucia, St. Kitts and Nevis, Grenada and other Commonwealth states to act on/implement accepted UPR recommendations.
- To provide a network whereby delegates from the various commonwealth states and stakeholders could share knowledge, expertise, challenges and strategies regarding UPR implementation and recommendations.
- To encourage all stakeholders to remain engaged with the UPR before the next review in 2014.

Setting and Topics

The seminar was officially opened by the Honourable Karl Hood, Minister for Foreign Affairs and Ms. Roxie Hutchinson of the Foreign Service of Grenada. Other facilitators included: Ms. Amna Jatoi and Ms. Beatrice Morgan of the Commonwealth Secretariat; Mr. John Kissane, an independent consultant appointed by the Commonwealth Secretariat; and Ms. Iniyan Illango of the Commonwealth Human Rights Initiative (CHRI). Ms. Illango outlined the process of UPR and set the stage of the discussion to follow.

The following topics were covered in the two-day session:

- UPR as a mechanism; the review of the process.
- The process regarding UPR follow-up and implementation stage.
- The role of the government, NGOs, NHRIs and parliamentarians in the UPR process.
- Recommendations already adopted by Caribbean countries. The successes and challenges in implementing UPR process in the region.
- The roles which civil society organizations can play in progressing UPR implementation through collaboration with other stakeholders.

Group Discussion

Participants were divided first into various groups to discuss the roles that stakeholder organizations can play in the process of UPR; the challenges that can be expected and ideas for fostering collaboration with other sectors.

On day two, participants were divided into country groups to work on an action plan for UPR in their own jurisdiction. These country groups comprised representatives from Civil Society, Human Rights Organization, Parliament, Government and the Ombudsman office. The country groups were expected to study the recommendations previously accepted by their country; review the successes and challenges of their country; make recommendations and appoint key implementers to drive the UPR process. At the end of each session, a group leader was appointed to make a PowerPoint presentation to the plenary session. Recommendations on some key topics discussed were as follows:

- Protection of vulnerable groups and minorities.
- Racial discrimination.
- Children's rights.
- Women's rights and gender equality.

- Establishing a national human rights institution.
- Human rights promotion.
- International obligations/technical assistance.
- Undertaking a comprehensive review of prison conditions to ensure that all detainees are treated humanely.
- Overcrowding in prisons.

Country Experiences

It was observed that most of the jurisdictions in the Caribbean region had similar success and challenges in implementing UPR in their country. Trinidad and Tobago appeared to be further advanced in UPR implementation. Hon. Rodger Samuel, Minister of State in the Office of the Prime Minister of Trinidad and Tobago, discussed his country's progress in strengthening provision of socio-economic rights and delivery of public services. For example, the treatment of persons with HIV/AIDS, women's rights and the experiment of allowing prison inmates to spend time with their wives and loved ones.

Conclusion

At the end of the seminar, persons representing various stakeholder groups in each country were reminded of the submission of the Country Report and the Stakeholder Report. A compilation by OHCHR of reports by the UN Bodies was distributed. These reports are to be submitted for the next review at the United Nations in Geneva 2014.

The Grenada delegation promised to meet as a committee to advance the UPR process.

The Investigations Officer expressed gratitude to the office of the Ombudsman, Grenada for selecting him to attend this important workshop. The network established by the various stakeholder groups represented; and the Commonwealth Secretariat for arranging the Seminar.

Submitted By:
Mr. Wilfred Hercules, Investigations Officer

2) Report on seminar in Curacao : Investigations Officer SECOND CURACAO INTERNATIONAL OMBUDSMAN CONFERENCE

WITH THE THEME: “INVESTIGATIVE METHODS AND TECHNIQUES”

A training workshop was held in Curacao on 4th-8th June, 2012. This workshop with the theme **Investigative Methods and Techniques** was organized by the Office of the Ombudsman of Curacao and the Caribbean International University, with the cooperation of the Institute of Latin-American Ombudsman. The venue was the World Trade Centre, Curacao.

This dynamic two-day session covered the following topics:

- The Investigative Role of the Ombudsman.
- Systemic Investigation commonly referred to as “own motion“. That is, an important tool to expose persistent structured government misconduct.
- Investigation Planning.
- Red flags to prevent investigative pitfalls while conducting investigations of serious violations of human rights.
- The threats a young Ombudsman's office faces while conducting investigations.
- The Ombudsman as a continuous educator of human rights
- Dealing with complaints.
- Addressing evidence presented.
- Writing reports.
- Compliance with recommendations.

Most of the presenters demonstrated sound knowledge and experience in their deliberations. The sessions were very interactive and on many occasions participants were asked to write their additional questions and interface with the presenter during the break sessions, in the interest of time.

The Ombudsman of Ontario, Mr. Andre Paul Marin was dynamic and had the audience captivated with his presentation on an experience his office encountered during the G20 Summit commissioned in Toronto during 2010. He cited abuse and misuse of power by the police officers assigned to control the crowd.

Dr. Nilda Arduin, the Ombudsman of St. Maarten, examined the threats a young Ombudsman's office faces while conducting investigations. It was noticeable and in fact appreciated by the participants of Ombudsmen offices within the Caribbean

basin, that the experiences are similar. Most of these jurisdictions are similar in size, population and history.

Participants were asked to participate in an Investigation Planning Group Session. In this systemic investigation, persons were placed into various groups and a scenario was presented. The objective was to examine the procedures and techniques each group would embark upon to guarantee success of the scenario given.

Each group was asked to develop an investigation plan and present their strategy via PowerPoint presentation. The group leader and its members were vigorously questioned at the end of the presentation and they had to defend their strategy with sound reasoning. This created enormous attention and debate. In my view, there was no concrete solution, but the general guidelines as presented by the moderator provided "food for thought" in regard to the correct method and process in carrying out investigations, assessing evidence and writing reports.

- Identify the issue carefully
- Avoid expanding the investigation
- Plan the investigation meticulously
- 'Issue creep' – that is a situation where a complaint is made and one wants to stay focused. However, other related issues come up and often the investigator 'creeps' away from the real issue.

One of the most thought provoking presentations was made by Ms. Alba Martyn and Dr. Larry Devoe. They challenged Ombudsmen in the region to be fair and frank in their deliberations even if it involved exposing the relevant authorities.

She pontificated that after conducting an annual report, the Ombudsman should write excerpts and send it to the press. That is, writing an 'opinion piece' in the newspaper.

Also, the Ombudsman should call a meeting with the Minister and other heads of departments and familiarize them on deadline for response to reports.

The lecturer touched on the issue of whistle blowers stating they can be genuine or have a motive. Participants were reminded that sometimes it can be well intended, but misinformed.

In conclusion, the Investigations Officer wishes to thank the Grenada Office of the Ombudsman for funding his attendance at the workshop; the Office of the Ombudsman, Curacao for their hospitality; and the Caribbean International University for their organizational support in advancing knowledge of regional offices and a professionally organized workshop.

(3) LIST OF PUBLIC AUTHORITIES

PUBLIC AUTHORITY	CODE	PUBLIC AUTHORITY	CODE
Ministry of Agriculture, Forestry, and Fisheries	MAF	Child Protection Authority	CPA
Ministry of Carriacou and Petite Martinique Affairs	MCP	Gravel, Concrete & Emulsion Production Corporation	GCE
Ministry of Education and Human Resource Development	MEH	Grenada Airport Authority	GAA
Ministry of the Environment, Foreign Trade and Export Development	MEF	Grenada Authority for the Regulation of Financial Institutions	ARF
Ministry of Finance, Planning, Economy, Energy and Cooperatives	MFP	Grenada Board of Tourism	GBT
Ministry of Foreign Affairs	MFA	Grenada Bureau of Standards	BOS
Ministry of Health	MHE	Grenada Cultural Foundation	GCF
Ministry of Housing, Lands and Community Development	MHL	Grenada Development Bank	GDB
Ministry of Labour, Social Security and Ecclesiastical Affairs	MLS	Grenada Food and Nutrition Council	FNC
Ministry of Legal Affairs	MLA	Grenada Housing Authority	GHA
Prime Ministers Ministry (National Security, Public Administration, ICT and Culture	PMM	Grenada Industrial Development Corporation	IDC
Ministry of Social Development	MSD	Grenada National Lottery Authority	NLA
Ministry of Tourism and Civil Aviation	MTC	Grenada National Museum	GNM
Ministry of Works, Physical Development and Public Utilities	MWP	Grenada Port Authority	GPA
Ministry of Youth Empowerment and Sports	MYS	Grenada Postal Corporation	GPC
Department of Audit	DOA		

Office of the Ombudsman > Appendices

PUBLIC AUTHORITY	CODE
Governor General's Office	GGO
Integrity Commission	ICO
Magistracy	MAG
Office of the Director of Prosecutions	DPP
Office of the Houses of Parliament	OHP
Parliamentary Elections Office	PEO
Public Service Commission	PSC
Supreme Court Registry	SCR
Grenada Rural Enterprise Project	REP
Department of Public Administration	DPA

PUBLIC AUTHORITY	CODE
Grenada Solid Waste Management Authority	SWA
Marketing & National Importing Board	MIB
National Insurance Scheme	NIS
National Telecommunication Regulatory Commission	TRC
National Water & Sewage Authority	WSA
T. A Marryshow Community College	MCC
Royal Grenada Police Force	GPF
Physical Planning Unit	PPU
Market Access and Rural Development Enterprise Project	MAREP

(4) EXCERPTS FROM ACT #24/2007

Interpretation

2.(1) In this Act —

“administrative action” means any action taken by or on behalf of an authority in the exercise of its administrative functions and includes—

- (a) a decision or an act;
- (b) a failure to make a decision or do an act, including a failure to provide reasons for a decision;
- (c) a recommendation;
- (d) any action taken because of a recommendation; or
- (e) a failure to make a recommendation;

“complainant” means a person who makes a complaint pursuant to Section 20;

“Court” means the High Court;

“Government” means the Government of Grenada;

“investigation” means an investigation carried out pursuant to the provisions of this Act;

“mal-administration” means inefficient, bad or improper administration and, without derogation from the generality of the foregoing, includes—

- (f) unreasonable delay in dealing with the subject matter of an investigation;
- (g) abuse of power, including any discretionary power; or
- (h) administrative action that was—
 - (i) contrary to law;
 - (ii) unfair, oppressive, discriminatory or based on procedures that are unfair oppressive or discriminatory;
 - (iii) based wholly or partly on a mistake of law or fact or irrelevant grounds;
 - (iv) related to the application of arbitrary or unreasonable procedures;
or
 - (v) negligent;

“public authority” means—

- (a) corporation established by an Act of Parliament for the purpose of providing a public function and subsidiary company thereof registered pursuant to the provisions of the Companies Act;
- (b) a Department or Ministry of the Government;
- (c) any body, board, commission, committee or other similar body providing a public function;

“public function” means any activity performed a single time or continually, whether or not payment is received for it, and which is carried out by—

- (d) a person for or on behalf of or under the direction of a Ministry, Department of Government, a statutory body, local government authority or a government company;
- (e) a body, whether public or private providing public utilities including the provision of water, electricity or communications;

“public office and public service” shall have the meaning assigned to them respectively pursuant to section 111 of the Constitution;

“Public Service Commission” means the Public Service Commission established pursuant to section 83 of the Constitution;

- (2) **The references in this Act to a Ministry, Department or Agency of Government** shall include references to the Minister, Minister of State, members or officers of that Ministry, Department or Agency or any other person acting on behalf of such person or persons in the exercise or performance of a function conferred on such person or persons pursuant to any law in force in Grenada.

3.(1) This Act shall apply to all public authorities.

20. The functions of the Ombudsman are as follows—

- (1)
 - (a) Subject to subsection (2), to investigate any administrative action of a public authority for the purpose of deciding whether there is evidence of mal-administration on the part of the public authority; or whether any person or body of persons has or may have sustained injustice, injury or abuse as a result of any action taken by public authority or an officer or a member of such public authority;
 - (b) pursuant to an investigation, to make recommendations to the public authority concerning any administrative action that formed the subject of the investigation and, generally, about the ways of improving its administrative practices and procedures; and
 - (c) to perform such other functions as may be conferred on him or her pursuant to the provisions of this Act.
- (2) Subject to the provisions of this Act, the Ombudsman may investigate any administrative action taken by or on behalf of a public authority—
 - (a) where a complaint is made to him or her by a person who claims to have been treated unjustly as a result of mal-administration arising from or in connection with the administrative action taken by the public authority;
 - (b) on his or her own motion, notwithstanding that no complaint has been made to him or her, where he or she is satisfied that there are reasonable grounds to carry out an investigation in the public's interest.
- (3) The Ombudsman shall not investigate any matter or action which arose or took place more than ten years prior to the commencement of this Act.
- (4) The Ombudsman may conduct an investigation notwithstanding a provision in any enactment to the effect that—
 - (a) any decision, recommendation or act of a public authority shall be final;
 - (b) no appeal shall lie in respect thereof; or
 - (c) no proceeding of a public authority shall be challenged, reviewed, quashed or called into question.
- (5) The expression “abuse” as used in subsection (1) above shall include any act of dishonesty or refusal to act and any act motivated by discrimination based on religion, language, race, sex, colour, creed, disability or infirmity
- (6) Subject to the provisions of subsection (7), the Ombudsman shall not investigate—

- (a) any such action aforesaid in respect of which the complainant has already sought a remedy by way of proceedings in any court or in any tribunal constituted by or under any law;
 - (b) any such action or matters as are described in Schedule II; or
 - (c) the exercise of the powers conferred on the Governor-General pursuant to section 72 of the Constitution which relates to the prerogative of mercy.
- (7) The Ombudsman shall not be precluded from conducting an investigation in respect of any matter by reason only that it is open to the complainant to apply to the court for redress pursuant to section 16 of the Constitution, which relates to redress for contravention of the provisions for the protection of fundamental rights and freedoms.
- (8) If any question arises as to whether the Ombudsman has jurisdiction to investigate any case or class of cases under this Act, he or she may apply to the Court for a declaration determining that question.
- (9) The fact that an action is commenced in any court in connection with a matter under investigation by the Ombudsman shall not, unless the court otherwise directs, preclude such investigation.
- 21.** An investigation pursuant to section 20 may be undertaken by the Ombudsman on his or her own initiative or on a complaint made to him or her pursuant to section 22.
- 22.**(1) A complaint to the Ombudsman about any administrative action of a public authority—
- (a) shall be made by an aggrieved person, but may be made on his or her behalf by a member of his family or other suitable person to act for himself or herself;
 - (b) may be made orally, electronically or in writing; and
 - (c) shall be made within one year after the day the complainant first had notice of the administrative action.
- (2) Where the complaint is made to the Ombudsman, he or she shall record—
- (a) the name of the complainant, his or her address and telephone number; and;
 - (b) the subject matter of the complaint; and
 - (c) the date when the complaint was made.

- (3) The provisions of any law now or hereafter in force in Grenada prohibiting or restricting or authorizing or requiring the imposition of prohibitions or restrictions on communication between any person and any other person shall not apply to any communication between any person and the Ombudsman for the purpose of making a complaint under this Act and any person having the right or being under a duty to keep in custody or to detain in any place a person who desires to make a complaint under this Act shall take the necessary steps to facilitate the making of the complaint.
- (4) A person who is in custody, including on remand, shall be entitled—
- (a) on making a request to the person in whose custody he or she is detained or to any other person performing duties in connection with his or her detention to—
 - (ii) be provided with facilities for preparing a complaint in writing pursuant to this Act for furnishing to the Ombudsman and after the complaint has been made, any other relevant information and for enclosing the complaint or other information, if any, in a sealed envelope;
 - (iii) have sent to the Ombudsman, without undue delay, a sealed envelope delivered by him or her to any such person and addressed to the Ombudsman; and
 - (a) to have delivered to him or her, without undue delay, any sealed envelope, addressed to him or her and sent by the Ombudsman, that comes in the possession or under the control of the person in whose custody he or she is detained or of any other person performing duties in connection with his or her detention.
- (5) Where a sealed envelope addressed to the Ombudsman is delivered by a person detained in custody to a person referred to in subsection (4) for sending to the Ombudsman, or a sealed envelope addressed to a person so detained and sent by the Ombudsman comes into the possession or under the control of a person referred to in that subsection, neither the person in whose custody the first mentioned person is detained nor any other person performing duties in connection with his or her detention shall be entitled to open the envelope or to inspect any document enclosed in the envelope.
- (6) For the purposes of subsections (4) and (5), the Ombudsman may make arrangements with the appropriate public authority for the identification and delivery of sealed envelopes sent by the Ombudsman to persons detained in custody.

- 23.** (1) Where a complaint has been made to the Ombudsman in respect of an action taken by, or on behalf of a public authority the Ombudsman may make inquiries of the public authority for the purposes of determining whether

or not he or she is authorized to investigate the action—

- (2) If pursuant to subsection (2) the Ombudsman is authorized to investigate the action, the Ombudsman shall decide
 - (a) whether or not if he or she may subject to section 24, decide not to investigate the action; or
 - (b) whether or not he may determine the action without the need for an investigation under this Act; having regard to the nature and seriousness of the complaint.
- (3) An inquiry under subsection (1) is not an investigation for the purposes of section 27.

- 24.** (1) The Ombudsman may refuse to investigate or may cease investigating a complaint if, in the opinion of the Ombudsman, any of the following apply—
- (a) the complainant knew or ought to have known of the decision, recommendation, act or omission to which he or she refers more than a year before the complaint was received by the Ombudsman;
 - (b) the subject matter of the complaint primarily affects a person other than the complainant and the complainant does not have sufficient personal interest in it and is not making the complaint pursuant to section 22 (1) (a);
 - (c) the law or existing administrative procedure provides a remedy adequate in the circumstances for the complainant, and, if the complainant has not availed himself or herself of the remedy, there is no reasonable justification for the failure to do so;
 - (d) the complaint is frivolous, vexatious, not made in good faith or concerns a trivial matter;
 - (e) having regard to all the circumstances, further investigation is not necessary in order to consider the complaint;
 - (f) if in the circumstances, investigation would not benefit the complainant;
 - (g) the complainant has abandoned the complaint—
 - (i) by failing to advise the Ombudsman of a current address or a telephone number at which the Ombudsman can contact him or her;
 - (ii) by failing to respond after a reasonable number of attempts by the Ombudsman to contact him or her verbally in writing;

(h) the complaint is withdrawn by the complainant by notice to the Ombudsman;

(i) the complaint is settled pursuant to section 25.

(2) For the purposes of subsection 1 (a), a complainant shall be deemed to have first had knowledge of the matters alleged in the complaint at the time when he or she might reasonably be expected to have had that knowledge.

(3) Where the Ombudsman decides not to undertake or continue the investigation of a complaint, he or she shall notify the complainant of his or her decision and give reasons therefor.

(4) The Ombudsman may indicate with the notification under subsection (3) any other recourse that may be available to the complainant.

25. (1) The Ombudsman may decide to deal with a complaint by mediation under this section if he or she is of the opinion having regard to all the circumstances of the case, that mediation is suitable to such circumstances.

(2) The Ombudsman may authorize any person appointed pursuant to section 14 to act as a mediator in any mediation.

(3) Participation in the mediation by the public authority that is the subject of the investigation and the complainant is voluntary, and any party may withdraw at any time.

Copies of the Act may be found on the Government of Grenada's and Ombudsman's websites.

Government of Grenada's Website
www.gov.gd

Ombudsman's Website
www.ombudsman.gd