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OVERVIEW

One thousand and twelve (**1,012**) written complaints were received in the year 2004. In addition, **127** enquiries were made. A total of **2664** complaints were brought forward from previous years. So that the workload for the year 2004, was **3,676** complaints of which **954** were resolved or concluded.

The previous year's workload consisted of **3,717** complaints comprising **1304** complaints received in that year (2003) and **2,413** complaints brought over from previous years of which **660** were resolved or concluded.

The improvement in performance in the year 2004 can be attributed to the fact of better record keeping and less delay by ministries and departments in responding to our queries.

The Tobago Office which was established in the year 2002, showed an increase by one in the number of complaints received over the previous year. For the year, 2003, a total of **187** complaints were received, as compared with the year 2004 when **188** written complaints were received.

The number of persons who accessed the outreach programme for the year 2004, totaled **589** as compared with **618** in the previous year, 2003. The details are as follows:

San Fernando	
Point Fortin	
Chaguanas	
Siparia	
Sangre Grande	
Rio Claro	
Roxborough (Tobago)	

Eleven (11) complaints were received under the Freedom of Information Act as compared with ten (10) received in the previous year. The Act which came into force on 4th November, 1999 is designed to give to members of the public a general right (with exceptions) of access to official documents of public authorities. Details of these matters appear in the Statistical Review published at page **15**.

The Third Regional Conference of the Caribbean Ombudsman Association was held in Jamaica from 10th to 14th May, 2004. The theme of the Conference was "***The Ombudsman: A Champion of Social Justice and Human Rights.***" I was accompanied to the Conference by Mrs Donna Hyndman, Investigator. It was hosted by the Public Defender of Jamaica.

I also attended a Conference in Curacao from 24th to 26th October, 2004, the theme of which was “A Regional Ombudsman for Caribbean States.” It was hosted by the Curacao Ombudsman and sponsored by the Latin American Ombudsman Institute, the Government of Finland and the Government of Curacao.

The VIIIth World Conference of the International Ombudsman Institute (I.O.I) was held at the Quebec Convention Centre, Quebec, Canada from 7th to 10th September, 2004. I attended as a voting member of the I.O.I. and took part in the conferences and workshops. The theme of the Conference was: *“Balancing the Obligations of Citizenship with the Recognition of Individual Rights and Responsibilities – The Role of Ombudsmen.”* Details of these workshops/conferences appear at page 8 of this Report.

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Of the one thousand and twelve (**1012**) complaints received in 2004, a substantial number were recorded against the following Ministries/Departments as indicated:

Local Government Bodies	
Tobago House of Assembly	
Health	
Housing	
Social Services Delivery	
Water and Sewerage Authority	
Trinidad and Tobago Electricity Commission	
Education	
Agriculture, Land and Marine Resources	

The local government bodies comprise five (**5**) City and Borough Corporations and nine (**9**) Regional Corporations; a total of one hundred and four (**104**) complaints were recorded against them for the year 2004 as compared with a total of one hundred and twenty three (**123**) complaints recorded for the year 2003.

Complaints related primarily to the condition of roads, drainage and other infrastructural deficiencies which impacted on the daily lives of citizens. Complaints also related to questions by employees with respect to discrimination in employment practices.

Complaints against the Tobago House of Assembly in respect of services provided by departments which fall under their jurisdiction related mainly to discrimination in employment practices and to matters of social assistance and old age pensions.

Complaints against the Ministry of Health related mainly to the question of non payment of monetary benefits (increments, acting allowance, arrears of salary and retirement grants and pensions) and delay in obtaining medical records and medical certificates. Complaints also

were made with respect to delays by the Public Health Department in dealing with various health hazards.

Complaints against the Ministry of Housing related mainly to assistance in securing housing accommodation and failure to renovate and maintain the Authority's houses and apartments.

Complaints against Social Services Delivery were mainly with respect to the provision of old age pensions and social assistance.

Complaints against the Water and Sewerage Authority related mainly to lack of water supply, wrongful billing and billing despite the lack of a water.

Complaints against the Trinidad and Tobago Electricity Commission related to excessive billing, failure to replace or repair street lights, failure to pay compensation for damage to electrical appliances and delays in obtaining an electricity connection.

Complaints against the Ministry of Education related mainly to the delay in payment of increments, acting allowance, arrears of salary, COLA and pension benefits. Complaints were also received about improper keeping of employment records.

Complaints against the Ministry of Agriculture, Land and Marine Resources were mainly concerned with the delay in obtaining leases and deeds for State lands.

Our success, as in previous years, depended on the assistance and co-operation of the various departments and authorities with whom we interface from day to day in resolving the complaints of citizens. There however continues to be delays in the handling of correspondence and laxity in taking action with respect to Ombudsman's recommendations. Such bureaucratic delays remain the main obstacle in the resolution of complaints. The problem is systemic in nature and is a prevailing source of hardship and injustice to Complainants.

PART I

GENERAL

CONFERENCES/WORKSHOPS

CARIBBEAN OMBUDSMAN ASSOCIATION (CAROA)

Third Regional Conference

The Third Regional conference/workshop of the Caribbean Ombudsman Association of which I am a member, was held in Jamaica from 10th to 14th May, 2004. I was accompanied to the conference by Mrs Donna Hyndman, Investigator. The theme of the conference/workshop was: *“The Ombudsman: A Champion of Social Justice and Human Rights.”*

Participants at the conference/workshop included Ombudsmen from Antigua and Barbuda, Barbados, Guyana, Jamaica, Belize, Sierra Leone, Venezuela, St Lucia and Costa Rica. Other participants included: the Human Rights Commissioner of Bermuda, former Secretary-General of the Canadian Human Rights Commission, Associate Professor of Management of Austin Peay State University, U.S.A., Dr Najmul Abedin, representatives of the Commonwealth Secretariat and the Political Ombudsman of Jamaica.

Among the topics which the conference/workshop discussed were the following:

1. The Adaptation of the Ombudsman concept to the Caribbean
2. Balancing security and human rights
3. The Ombudsman and Parliament
4. The Police Complaints Authority and the Ombudsman
5. The Impact of the Ombudsman on National Development
6. The Regional Ombudsman – Is the time right?
7. Innovations on the Promotion of Social Justice and Human Rights

Regional Ombudsman for the Caribbean

In collaboration with the Caribbean Ombudsman Association (CAROA) of which I am a members, the Curacao Ombudsman, Mr Frederick P. Wiel L.L.M. hosted a seminar of CAROA on the theme: *“A Regional Ombudsman for Caribbean States.”* The Seminar was sponsored by the Latin American Ombudsman Institute, the Government of Finland and the Government of Curacao.

The Seminar was held at Willemstad, Curacao, Netherlands Antilles from 24th to 26th October, 2004 and was opened by Her Excellency Mrs Liza Richards-Dindial L.L.M., the Governor of the Island Territory of Curacao. The keynote address was delivered by Dr Jacob Soderman, first European Ombudsman (1993-2003).

It was attended by Ombudsmen from Antigua & Barbuda, Curacao, Guyana, Jamaica, St Lucia, Trinidad and Tobago as well as representatives from the Commonwealth Secretariat, the Latin American Institute (ILO) and the Embassy of Finland in Venezuela.

The topics discussed by the working groups and in the plenary sessions included issues and questions regarding the determination of the region, the jurisdiction of the regional ombudsman, the right to complain, the steps to be undertaken in the preparation stages, the appointment of a committee and the chairmanship of the committee.

A further meeting is to be held in Trinidad in the year 2005.

International Ombudsman Institute (I.O.I)

The VIIIth World Conference of the International Ombudsman Institute (I.O.I) was held at the Quebec Convention Centre, Quebec, Canada from September 7th to 10th, 2004. I attended as a voting member of the I.O.I. and took part in the workshops and conferences.

The Conference was hosted by Mrs Pauline Champeux-Lesage, Public Protector of Quebec, Canada. The theme of the conference was ***“Balancing the Obligations of Citizenship with the Recognition of Individual Rights and Responsibilities – The Role of the Ombudsman.”***

The opening addresses were delivered by His Excellency the Right Honourable Adrienne Clarkson, Governor-General of Canada, Mr Sam Hamed, Minister responsible for the Capitale-National region and Mr Clare Lewis, Q.C. Ombudsman of Ontario, Canada, President of the International Ombudsman Institute (I.O.I.).

The Workshop dealt with the following topics:

1. Respecting Human Diversity and generally understood Democratic Values.
2. The Responsibility of the Ombudsman in Developing Public Service Ethics in the face of Socio-political and Economic change.
3. Can the Recognition of Individual Rights and Freedoms Survive the Pressure to Enhance Security?

The Conference was attended by delegates from seventy-four (74) countries which held membership in the I.O.I.

Membership of the I.O.I. and CAROA and participation in their conferences, seminars and activities have significant advantages for their members.

Ombudsmen and their staff have the right to participate in educational and other types of programmes. The I.O.I. provides scholarships, fellowship grants and other types of financial support in order to encourage the development of the Ombudsman concept and the encouragement of study and research in the Institute of Ombudsman.

Participation also demonstrates our commitment to democracy and the rule of law.

AREA OF CONCERN

LAND DEVELOPMENT

The Town and Country Planning Act Chapter 35:01 makes provision for the orderly and progressive development of land in both urban and rural areas, and further enacts that the responsibility for its administration lies with the Minister of Planning and Development.

Through the delegation of his/her powers the Town and Country Planning Division is mandated to administer guidelines for development control and the enhancement and protection of the physical and human environment.

It is evident by the number of complaints that I and my predecessor have received over the years, that the staffing, organizational, political and institutional policies and existing legislative framework are inadequate. It is incapable of providing the required formulation, implementation, monitoring and evaluation consistent with effective developmental planning and control.

Many of these complaints are as a result of neighbours extending their boundary lines, failing to observe the set back requirements or height restrictions with respect to building eaves, gutterings, gates, fences and walls.

The unauthorized operation of factories and other commercial activities in residential areas is also a major source of complaint and usually involves the unauthorized change of use of land and construction of buildings. Some of these enterprises consist of metal fabrication, furniture and wood working shops, motor vehicle repairs and spray painting. The dust, fumes and noise associated with these create serious environmental and public health problems for the residents.

Another major complaint is the failure of some private developers to construct and maintain proper sewage plants in housing developments. It is a dangerous practice which impairs the health and safety of the residents.

In other cases offending parties may operate recreational clubs or bars, which invariably involves the playing of loud music and raucous behaviour at unreasonable hours.

Adding to the overall confusion is a proliferation of squatting communities some of which have been in existence for a number of years while others are fairly recent. These areas, since they were never intended for residential purposes, lack most of the basic infrastructure such as roads, drainage, a pipe borne water supply and electricity.

While attempts have been made of regularization of squatters through "letters of comfort" from the Land Settlement Agency as an interim measure, the ad hoc nature of such developments has resulted in underdevelopment in crucial areas contributing in some measure to environmental degradation.

Where unauthorized development occurs, the Town and Country Planning Division may invite applications for planning permission and may subsequently grant that permission or require the offending party to take steps to rectify the problem through alteration of the buildings, outright or partial demolition and/or the discontinuance of the use of land in any manner contrary to law. The Division is also authorized to take action through the courts to impose penalties and/or remove the offending developer. This course of action requires the Division to serve a notice of the violation on the owner and occupier of the unauthorized development within four (4) years from the date of the violation.

Unfortunately, when unauthorized development occurs, enforcement action appears to be infrequent and irregular.

In an attempt to protect the State from litigation, notices to be served on offending parties are first vetted by the Director of Public Prosecutions. However given the phenomenal schedule of cases with which that department must contend, enforcement matters have historically not been given priority. Further when treating with major developments, an input is required of multiple Government Agencies such as the Director of Surveys, the Highways and Drainage Divisions of the Ministry of Works and Transport, all the Public Utilities, the City, Municipal and Regional Corporations, the Tobago House of Assembly and the Electrical Inspectorate. The result is frequent delays induced by limited human resources within the Division as well as external factors which prohibit the Division from taking remedial action within the statues of limitations.

Although the Town and Country Planning Division may be unable after four (4) years to pursue enforcement under the Town and Country Planning Act, Complainants are not left without recourse. Indeed many of the complaints are in reality, public nuisances and may be pursued through other legislation which carries no such limitation.

The Municipal Corporation Act, 1990 gives Corporations wide reaching powers to deal with breaches of the law with respect to commercial or domestic buildings, streets, drains, dwelling units and water courses within the municipality.

Specifically Section 163 of the said Act states *inter alia*:

“Where any building or other structure is commenced or completed within a Municipality or any work is done in contravention of any of the provisions of this Part or any building regulations of the Council or of the requirements of the Town and Country Planning Act of any other written law, the Council may serve on the owner or builder of the building, structure or work a written notice specifying the contraventions and requiring such owner and building –

- (a) on or before a day to be specified in the notice, by a statement in writing, to show cause why such building or other structure or such work should not be removed, altered, or pulled down, or***

(b) on such day and at such time and place as shall be specified in the notice to attend personally or by an agent duly authorized in writing on that behalf before the Council and show sufficient cause why such building or structure should not be removed, altered or pulled down.”

The Public Health Ordinance Chapter 12 No. 4, as amended by the Public Health Act, 1990 also provides for each Local Government Authority to take action against an offending party who has created a nuisance injurious to the health of the neighbourhood. The offending party is given three (3) days notice to abate the nuisance and discontinue the operation or be required to appear before a Magistrate.

Where the issue is noise pollution or environmental degradation, the Environmental Management Authority Act allows for the Environmental Commission to undertake an investigation. The Commission is empowered to grant orders to compel persons to undertake an act or restrain them from acting and pay compensation for environmental damage where and whenever this becomes an issue.

The maintenance of sewage plants is provided for in the Water and Sewerage Act, Section 62 gives the Authority the responsibility for “*administering the sewerage services*” thereby establishing and providing sewage facilities in Trinidad and Tobago. Section 63 also makes the Water and Sewerage Authority responsible with the Local Authorities for the maintenance of sewage schemes.

While it is evident that there is sufficient legislation external to the Town and Country Planning Act to deal with nuisances, the Agencies that have the jurisdiction to administer the legislation have displayed a reluctance to act against offending parties.

Therefore in recognition of the need to build in house capacity throughout all levels of planning authorities to facilitate the move of the Town and Country Planning Division from its present stage of developmental control to developmental planning, Cabinet by Minute 2692 of 1996 agreed to the appointment of an Interim National Physical Planning Commission. The Commission was mandated to prepare a comprehensive and integrated physical plan, develop codes of appropriate building, construction and development standards and practices and ensure that all persons and Agencies concerned adhere to the codes and practices and to the overall National Plan.

The Commission noted that in order to achieve the required developmental planning and control, Local Government Authorities, Health and Environmental Agencies and Public Utilities would need to have a more proactive role in the process through a devolution of powers from the Town and Country Planning Division and the Central Government.

It further noted that there is some inadequacy and reluctance on the part of these Authorities to administer and implement the laws as they currently exist. They have failed to be responsive to the socio-economic, political and technological needs, resources and changes in the country.

However these bodies are not to be blamed totally for this situation. There is a lack of professional as well as technical staff and where these positions exist on the establishments they have remained vacant. There is a lack of public involvement in the decision making process and insufficient political support. Although illegal and unauthorized use of land amounts to 70%, planners are known to plan for approximately 30%.

The planning process therefore requires a collaborative effort with Central Government through the Town and Country Planning Division defining broad outlines of a national development strategy together with Local Authorities, Corporations and Public Utilities being more receptive to the new challenges and responsibilities of the process participation of all stakeholders, including State agencies, private and public sector businesses and special interest and community groups.

PART II

1. STATISTICAL REVIEW
2. SELECTED CASE SUMMARIES
3. SUMMARY OF OTHER COMPLAINTS
RECEIVED IN 2004

STATISTICAL REVIEW 2004

In the year 2004 a total number of one thousand and twelve (**1012**) written complaints and one hundred and twenty-seven (**127**) enquiries were received at my Office. Of the written complaints one hundred and thirty-one (**131**) or thirteen (13%) were made against private agencies. In all instances where complaints and enquiries were made against private bodies, I referred them to the relevant authorities or advised the complainants and enquirers on the appropriate action which they should take towards having their complaints resolved.

I commenced investigation on eight hundred and eighty-one (**881**) complaints which fell within my jurisdiction. This figure represents eight-seven (87%) of the new complaints received. At the close of the year 2004, investigations were concluded on one hundred and fifty-five (**155**) or eighteen (18%) of these complaints. A remainder of seven hundred and twenty-six (**726**) complaints or eighty-two (82%) are still under investigation.

Figure1 shows the number of new complaints received in 2004 and the manner of their disposal.

**STATISTICS ON NEW COMPLAINTS RECEIVED DURING THE PERIOD
JANUARY – DECEMBER 2004**

FIGURE 1

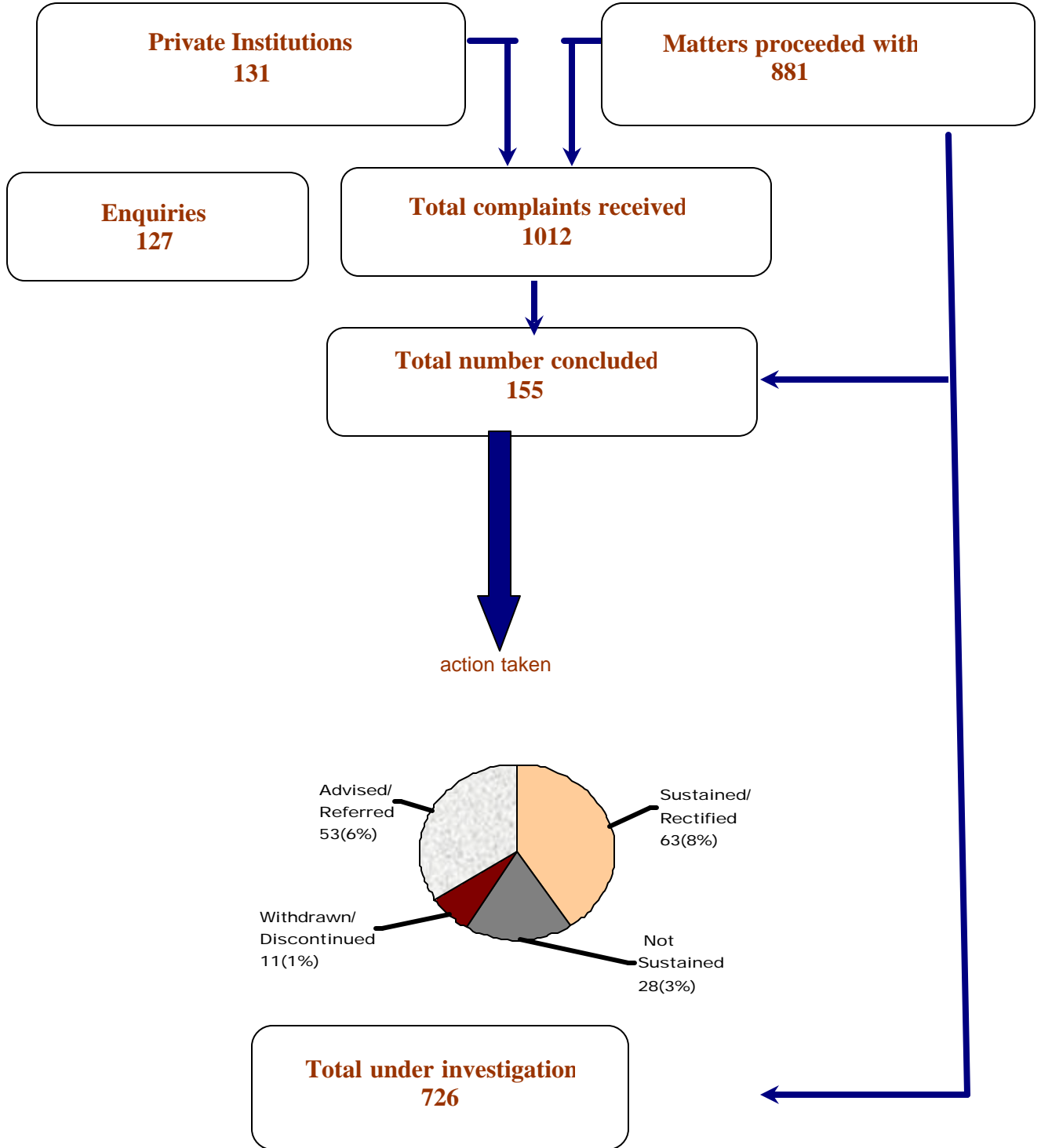


TABLE I
STATISTICS ON COMPLAINTS BROUGHT FORWARD
FROM PRECEDING YEARS

	TOTAL
Total number of complaints brought forward from previous years	2664
Total number of complaints concluded	799
Sustained /Rectified	
Not Sustained	
Withdrawn/Discontinued	
Advised/Referred	
Number of complaints still under investigation	1865

Table I shows the number of complaints brought forward from previous years on which investigations were continued. A significant increase was noted in the number of investigations concluded from previous years. In 2003, two hundred and ninety four (294) complaints from previous years were concluded while in 2004, there was an increase of five hundred and five (505) completed complaints. This increase may be attributed in part to better record keeping and less delay in responding to our queries by government ministries and departments.

It is to be noted that the workload for the period under review consisted of three thousand, six hundred and seventy six (3,676) complaints of which one thousand and twelve (1012) were received in 2004 and two thousand, six hundred and sixty four (2664) were brought over from previous years.

Table II show the number of complaints brought over from previous years, the number received for the year under review and the manner of their disposal.

TABLE 11
STATISTICS ON COMPLAINTS RECEIVED DURING THIS REPORTING PERIOD
AND THOSE BROUGHT FORWARD FROM PREVIOUS YEARS

	NUMBERS	PERCENTAGE
Total number of complaints brought forward from previous years	2664	
Total number of complaints received in 2004	1012	
TOTAL	3676	
Total number of complaints without jurisdiction	131	4
Total number of complaints proceeded with	3545	96
Total number of complaints concluded	954	27
Sustained/Rectified	332	9
Not Sustained	95	3
Withdrawn/Discontinued	139	4
Advised/Referred	388	11
Total number of complaints under investigation	2600	73

Figure II shows matters concluded and those still under investigation in respect of the year under review.

FIGURE 11

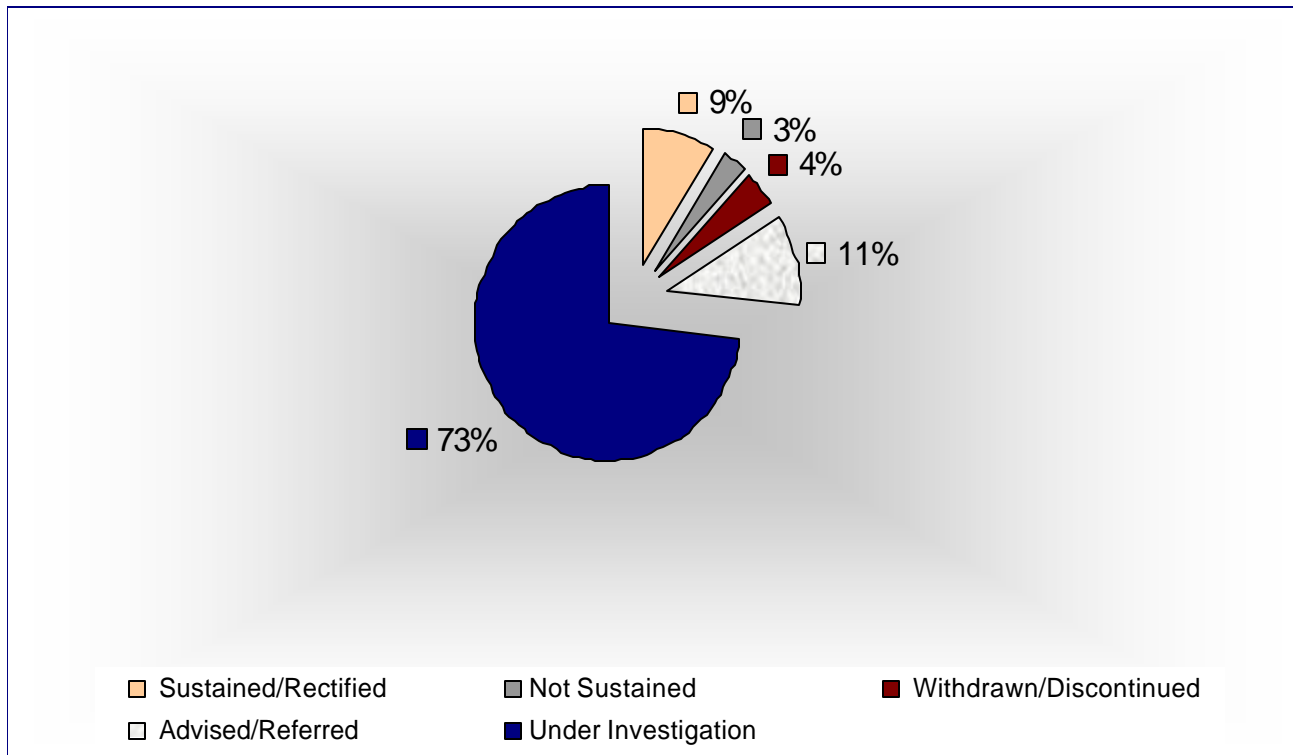


Table III shows the distribution of new complaints received against the various ministries and other state agencies and the manner of their disposal.

TABLE 111
DISTRIBUTION OF NEW COMPLAINTS IN RESPECT OF
MINISTRIES/DEPARTMENTS

Ministry/Authority/Agency	Total No. of Complaints	Sustained/ Rectified	Not Sustained	Withdrawn/ Discontinued	Advised/ Referred	Under Investigation
Agricultural Development Bank	2	0	0	0	0	2
Agriculture, Land, and Marine Resources	33	0	1	0	1	31
Airport Authority	3	1	0	0	0	2
Attorney General	2	0	0	0	0	2
BWIA	2	0	1	0	0	1
Caroni (1975) Limited	10	0	0	0	0	10
Central Administrative Services Tobago (CAST)	4	0	1	0	0	3
Chaguaramas Development Authority	2	0	0	0	0	2
Community Development, Culture and Gender Affairs	6	0	0	0	0	6
Education	34	6	1	0	1	26
Elections and Boundaries Commission	1	0	0	0	0	1
Energy and Energy Industries	4	0	0	0	0	4
Environmental Management Authority	5	0	0	1	0	4
Finance	34	2	0	0	1	31
Fund Aid	1	0	0	0	0	1
Health	57	11	2	0	2	42
Housing	50	2	0	0	2	46
Judiciary	8	1	0	1	1	5
Labour and Small and Micro Enterprise Development	13	1	1	0	1	10
Legal Affairs	7	0	0	0	1	6
Legal Aid and Advisory Authority	9	0	0	0	5	4
Local Government	3	1	0	0	0	2
Borough Corporations	17	0	2	0	0	15
City Corporations	19	1	0	0	0	18
Regional Corporations	67	2	2	1	5	57
Unemployment Relief Programme	1	0	0	0	0	1
Magistracy	13	0	0	0	2	11
National Flour Mills	1	0	1	0	0	0
National Maintenance Training and Company Limited (MTS)	3	1	0	0	0	2
National Insurance Board	48	7	4	3	5	29
Ministry/Authority/Agency	Total No.	Sustained/	Not	Withdrawn/	Advised/	Under

	of Complaints	Rectified	Sustained	Discontinued	Referred	Investigation
National Security	4	0	0	0	0	4
Coast Guard	1	0	0	0	0	1
Defence Force	2	0	0	0	0	2
Fire Services	8	0	0	0	0	8
Immigration	7	0	0	1	0	6
Police	25	2	1	1	3	18
Prisons	20	2	0	1	8	9
N.I.P.D.E.C	2	0	0	0	0	2
Office of the Prime Minister						
- Social Services Delivery	50	3	2	0	7	38
Planning and Development	9	0	0	0	1	8
Port Authority	6	0	0	0	0	6
Public Administration and Information	2	0	0	0	0	2
Government Printery	2	1	0	0	0	1
TSTT	17	5	0	0	0	12
Public Transport Service Corporation	7	0	0	0	1	6
Public Utilities and Environment	9	2	1	0	0	6
Forestry, National Parks and Wild Life	1	0	0	0	0	1
T&TEC	35	2	1	0	0	32
TTPost	4	1	0	0	0	3
WASA	39	1	0	0	0	38
Science, Technology and Tertiary Education	3	0	0	0	0	3
Service Commissions Department	19	1	0	0	0	18
Social Development	1	0	0	0	0	1
Sport and Youth Affairs	4	0	0	0	0	4
Statutory Authority	4	0	0	0	0	4
Teaching Service Commission	2	0	0	0	0	2
Tobago House of Assembly	1	0	0	0	0	1
Public Administration	2	0	1	0	0	1
Infrastructure and Public Utilities	37	0	1	0	0	36
Agriculture, Marine and the Environment	9	0	0	0	0	9
Health and Social Services	24	5	3	0	0	16
Tourism, Transportation, Enterprise, Development and Settlements	4	0	0	0	0	4
Education, Youth Affairs and Sports	9	0	0	0	1	8
Inland Revenue	4	0	1	0	0	3
Trade and Industry	3	0	0	0	0	3
Works and Transport	35	1	1	1	5	27
Freedom of Information Act	11	1	0	1	0	9
TOTAL	881	63	28	11	53	726
Private	131	0	0	0	0	0
GRAND TOTAL	1012	63	28	11	53	726

The distribution of complaints among Ministries this year bore a strong resemblance to that of last year. The ministries/agencies which recorded the highest number of complaints received were:

Ministry of Local Government (Regional Corporations)	67
Ministry of Health	57
Ministry of Housing	50
Office of the Prime Minister (Social Services Delivery)	50
National Insurance Board	48
Tobago House of Assembly (Infrastructure and Public Utilities)	37
Public Utilities and Environment - WASA	39
T&TEC	35
Ministry of Works and Transport	35

The Freedom of Information Act which came into force in November 1999 provides individuals with a legal right to access information held by public bodies subject to certain exceptions e.g. Cabinet documents, defence and security documents, internal working documents and documents relating to trade secrets.

In cases where access to information is refused, delayed or curtailed the legislation provides recourse to my Office by persons aggrieved. In 2004 a total of eleven (**11**) complaints were filed. Table III referred to above, shows the manner of their disposal.

In the year 2004 the Sub-Office in Tobago received a total of one hundred and eighty eight (188) written complaints. Forty-two (**42**) of these were made against private agencies and were referred to the relevant agencies. The majority of complaints were received against The Tobago House of Assembly with a total of ninety (**90**). The distribution of these complaints is reflected in Table III.

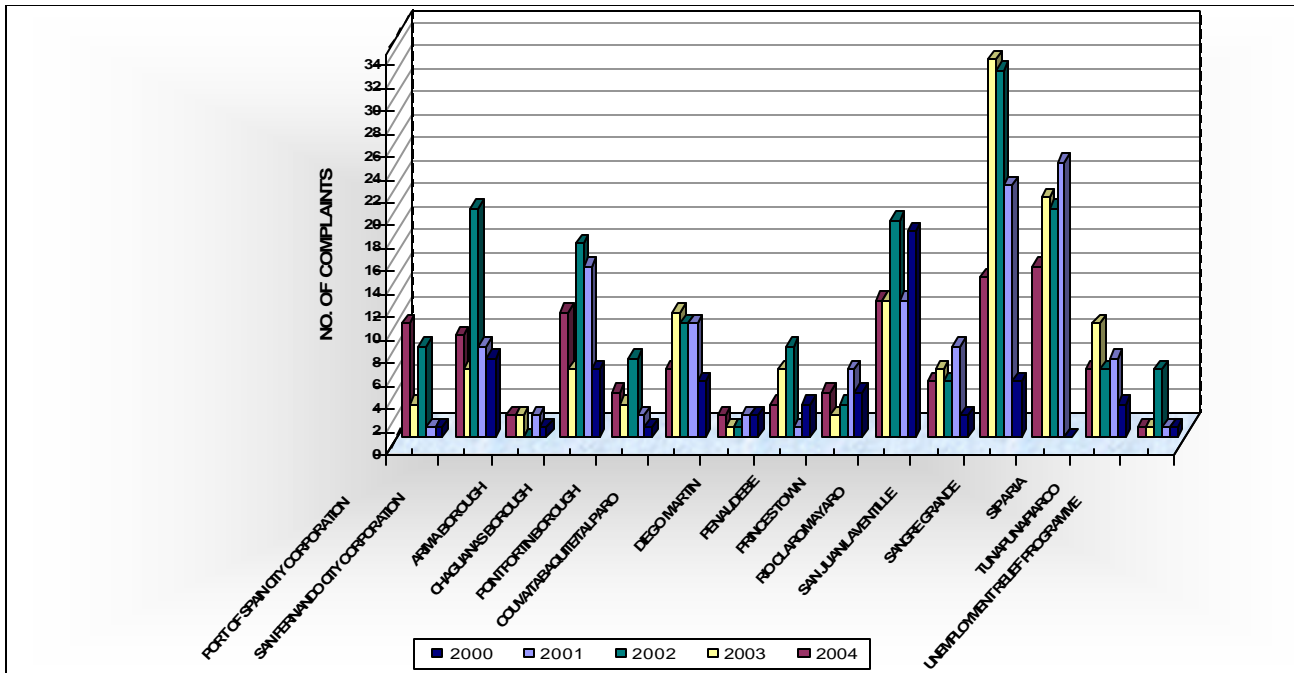
In addition a total of one hundred and twenty one (**121**) complaints were brought forward from previous years of which forty-three (**43**) were concluded and seventy-eight (**78**) are still under investigation. These figures are incorporated in Table 1.

Table 1V and Figure III show the distribution of complaints lodged against the Regional, City and Borough Corporations over the years 2000 – 2004. A total of one hundred and four (**104**) complaints were received in 2004. The Siparia Regional Corporation showed the highest number of fifteen (**15**) complaints.

TABLE 1V
LOCAL GOVERNMENT – CITY, BOROUGH AND REGIONAL CORPORATION

CORPORATION	TOTAL NUMBER OF COMPLAINTS RECEIVED				
	2000	2001	2002	2003	2004
PORT OF SPAIN CITY CORPORATION	1	1	8	3	10
SAN FERNANDO CITY CORPORATION	7	8	20	6	9
ARIMA BOROUGH	1	2	0	2	2
CHAGUANAS BOROUGH	6	15	17	6	11
POINT FORTIN BOROUGH	1	2	7	3	4
COUVA/TABAQUITE/TALPARO	5	10	10	11	6
DIEGO MARTIN	2	2	1	1	2
PENAL/DEBE	3	1	8	6	3
PRINCES TOWN	4	6	3	2	4
RIO CLARO/MAYARO	18	12	19	12	12
SAN JUAN/LAVENTILLE	2	8	5	6	5
SANGRE GRANDE	5	22	32	33	14
SIPARIA	0	24	20	21	15
TUNAPUNA/PIARCO	3	7	6	10	6
UNEMPLOYMENT RELIEF PROGRAMME	1	1	6	1	1
TOTAL	59	121	162	123	104

FIGURE 1II
COMPLAINTS AGAINST LOCAL GOVERNMENT BODIES FROM 2000-2004



A total of five hundred and eighty nine (**589**) persons visited the regional offices during the year 2004. The Office's outreach service in Tobago included the village of Roxborough. Citizens who live in Roxborough and its environs are now able to attend once every quarter at the Office of the Justice of the Peace, Roxborough Court in order to access the services provided by the Ombudsman's Office. A total number of fifteen (**15**) persons accessed this service during the year 2004. Table V shows the number of persons who accessed the outreach services in the year 2004. This is also reflected in Figure 1V.

TABLE V
NUMBER OF PERSONS WHO VISITED THE
REGIONAL OFFICES IN THE YEAR 2004

MONTHS	POINT FORTIN	RIO CLARO	SAN FERNANDO	CHAGUANAS	SANGRE GRANDE	SIPARIA	ROX BOROUGH	TOTAL
JANUARY	8	3	20	4	7	3	7	52
FEBRUARY	8	9	15	7	1	7	0	47
MARCH	11	3	7	6	3	5	0	35
APRIL	5	6	17	4	6	7	2	47
MAY	7	6	22	10	10	10	0	65
JUNE	9	9	18	8	5	10	0	59
JULY	6	10	33	4	6	6	3	68
AUGUST	5	3	14	10	6	6	0	44
SEPTEMBER	3	14	10	2	12	10	0	51
OCTOBER	9	2	18	7	6	5	3	50
NOVEMBER	6	3	24	13	7	4	0	57
DECEMBER	3	0	8	3	0	0	0	14
TOTAL	80	68	206	78	69	73	15	589

NUMBER OF PERSONS WHO VISITED THE REGIONAL OFFICES IN THE YEAR 2004

FIGURE 1V

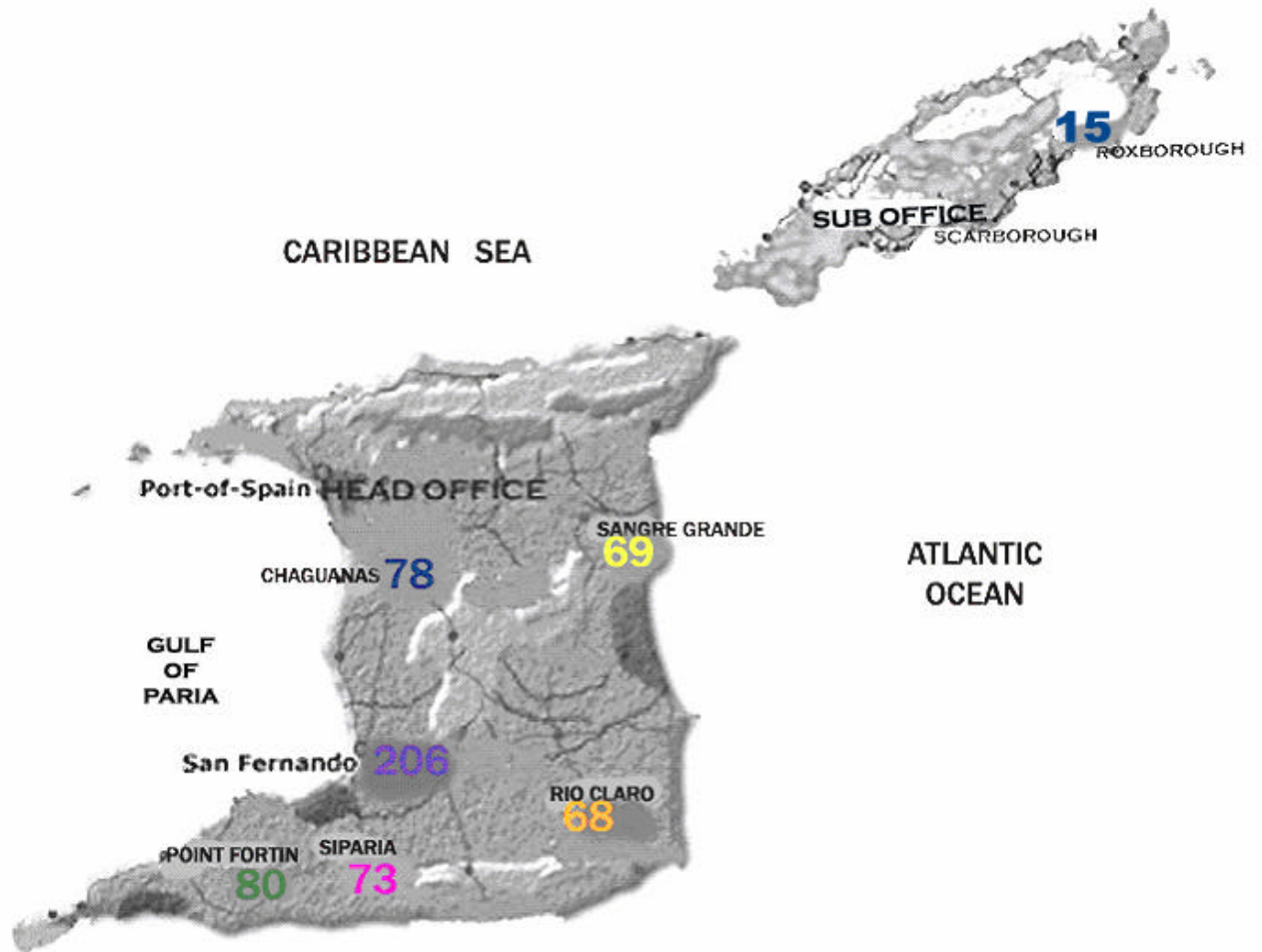


FIGURE V

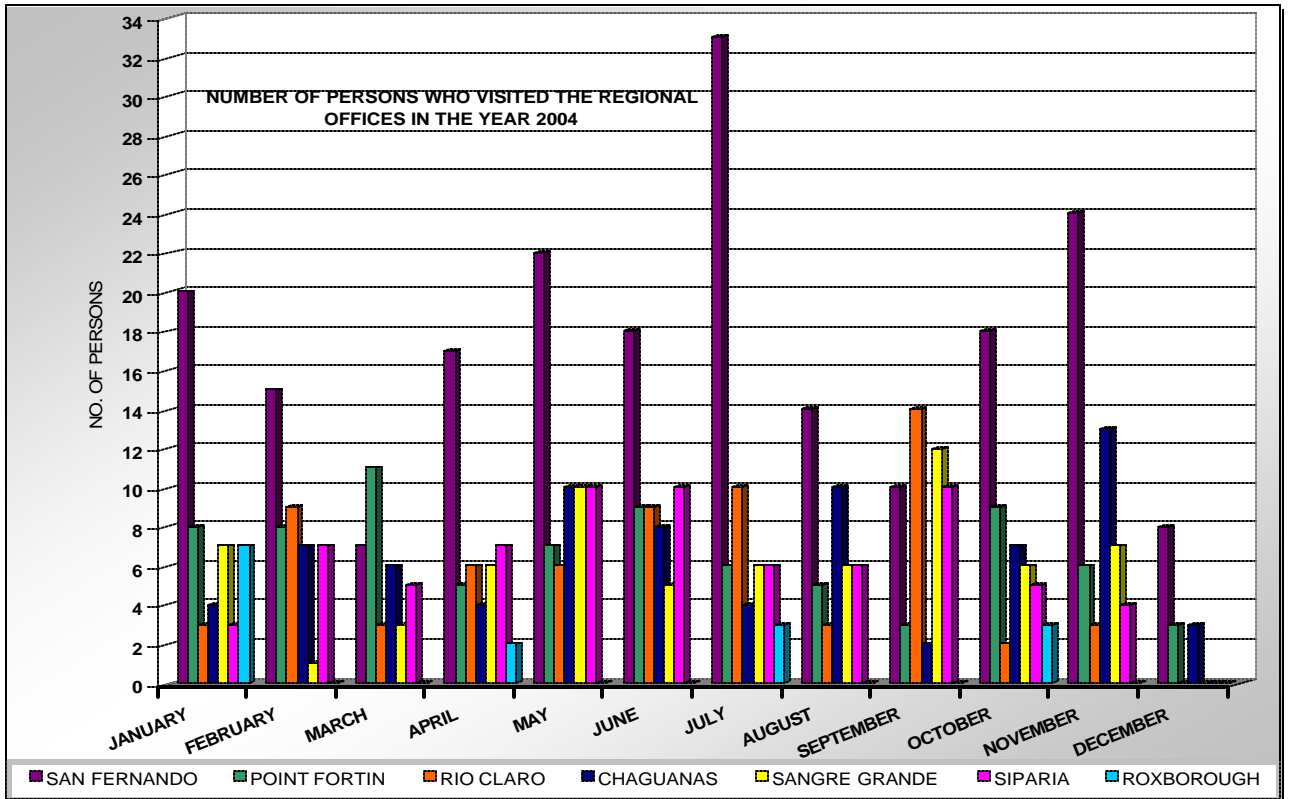


Figure V shows the number of persons who accessed the Regional Offices for each month during the year 2004.

OMB: T.0116/2004
0725/2004

MINISTRY OF AGRICULTURE
Agricultural Development Bank

The Complainant, whose company had entered into a loan agreement with the Agricultural Development Bank in June, 1999 and was charged amortized interest at the rate of 15% per annum complained that he subsequently learned that the ceiling placed on such loans did not exceed the rate of 12% per annum.

On investigating the matter, I indicated to the Bank that if the interest charged was above the statutory limit, that the contract should either be varied or rectified to take effect from the date of its inception.

I subsequently received a letter from the Corporate Manager- Credit that the rate ranged from 14% to 16% for the term of the loan and that the rate of 15% charged to the Complainant was approved by the then Board of Directors in accordance with the powers granted to them by Section 42(2) of the ADB amended Act of 1995.

It was further indicated that the Complainant had approached the Bank for a reduction in the rate when interest rates began falling throughout the banking industry and as a result of difficulties being experienced by the Company on the project which was financed from the loan.

The Bank was willing (without prejudice to its rights) to a reduction in the interest rate to 9% per annum on the balance of the loan as a result of the difficulties being experienced by the Company and the general reduction in interest rates nationally. The proposal was brought to the attention of the Complainant.

OMB:0559/2003

MINISTRY OF FINANCE
National Insurance Board

The Complainant who was a member of the Police Service was suspended from duties in February, 1983 but was re-instated in August 1991. During the period of his suspension, specifically between the years 1983 and 1985, he was employed by a private firm which made contributions to the National Insurance Board (NIB) on his behalf.

On his re-instatement in the Police Service he applied to the NIB for a refund of the contributions made by the private firm.

In a reply, on investigation of the matter, the NIB stated that national insurance contributions are compulsory under the National Insurance Act and are required to be paid by every

employer with whom the employee is employed. The effect of this was to guarantee insurance coverage during the Complainant's period of employment since, if he was injured while performing his duties with the private firm, he would be unable to claim employment injury benefit from the contributions made while he was in the Police Service. The injury would have arisen out of the employment in which the contributions were made.

This was the reason that the Complainant's contributions by the private firm were not refundable. This information was brought to the attention of the Complainant and the file was closed.

OMB:0163/2004

MINISTRY OF FINANCE
Board of Inland Revenue

The Complainant was appointed as a Teacher III at a Secondary School by the Ministry of Education and commenced her services in September, 2001. She received her salary for December, 2001 in that year but her salary for September to November, 2001 was only received by her in January, 2002. She had received no income from other sources in 2001.

The arrears of salary which she received in January, 2002 was treated as income for the year 2002 for income tax purposes. She raised the issue that the arrears should have been treated as income for the year 2001.

On taking up her complaint, I was advised by the Chairman, Board of Inland Revenue that Section 5(8) of the Income Tax Act states that where the gains or profits from any employment or office which are received by any person during a year of income include an amount which relates to any other year or years of income, the whole of the amount shall be treated as income for the year of income during which the amount was received by the person.

Based on this provision of the Act, the Board of Inland Revenue deemed that the salaries of the Complainant for the months September, October and November, 2001 were properly included in her income for the year 2002 and that she was liable to tax on such income.

Note: The Complainant suffered an injustice as a result of the provision in the Act. Through no fault of her own, her salaries for the months of September, October and November 2001 were paid late. If they were paid on the due dates she would have incurred no tax liability. This is an anomaly which requires urgent attention.

OMB:0052/2004

**MINISTRY OF FINANCE
National Insurance Board**

The Complainant was employed by a foreign firm as a pump technician for over thirty years. He was laid off in 2001 and applied for his insurance benefits from the National Insurance Board. He was aware that his employers had been deducting contributions from his salary during his employment. Payments were made to his bank account by the Board but they ceased in the year 2002. He had resumed work with his former employers and had completed two years of service. He reiterated that he was due payments by the Board for the period February, 2001 to June, 2003.

On investigating the matter, the Board explained that the Complainant's last working date on his application was 16th August, 1999 when he attained the retirement age of 60 years. He was paid a monthly retirement benefit of \$409.31 from that date.

However, the Complainant returned to work in August, 2001 and the benefit should have been suspended from that time in accordance with Section 16(4) of The National Insurance Benefit Regulations. The benefit should have been suspended until 31st January, 2002. In the result he had been overpaid for the period 1st August, 2001 to 31st January, 2002 in the sum of \$2,455.86.

On 1st April, 2003, the complainant submitted another application for retirement benefits with his last date employed as 14th January, 2003.

The additional contributions were used to re-calculate the benefit due to him and his new payment was determined at \$475.00 monthly.

The Board, acting in accordance with provisions in the Act recovered the sum overpaid from the amount which was due to the Complainant on the re-calculation and the difference of \$248.48 was paid to him.

His benefit was re-instated with effect from 1st July, 2003 at the monthly rate of \$475.09 and a monthly amount of \$1000.00 with effect from 1st October, 2003.

OMB: 0107/2001

MINISTRY OF HEALTH

The residents of a private development at Maracas, St. Joseph complained about the effects which a malfunctioning sewer system had on their health and well-being. They had reported the matter to the County Medical Officer of Health, the Water and Sewerage Authority and the Environmental Management Authority prior to making their complaint to the Ombudsman.

Efforts were made by the County Medical Officer of Health to have the nuisance abated by serving a statutory notice on the developer and the matter had been taken to Court.

In an effort to resolve the situation, the Water and Sewerage Authority carried out emergency works at the plant and had made the plant functional.

However, the County Medical Officer of Health continued to receive reports about the malfunction of the plant with the attendant consequences on the health and well-being of the residents.

In a report dated 29h May, 2003, the County Medical Officer of Health inspected the plant in the light of continuous complaints from the residents: He found that the plant was functioning and in good working condition, no identifiable offensive odor was identified and the effluent was discharged in a nearby river.

He recommended that all complaints relating to the functioning of the plant be addressed to the Water and Sewerage Authority since they were the agency responsible for the maintenance and functioning of the plant. The County Medical Officer was only responsible for the existence of any public health nuisance.

However, the plant had not been handed over to the Water and Sewerage Authority. The Authority nevertheless, in April, 2001, delivered a report in respect of emergency works to be carried out to correct the situation so as to make the plant functional and to abate the nuisance. It would appear that the report had little effect on the developer.

The residents continue to complain, stating that the plant continued to operate on an '*on and off*' basis due to neglect of maintenance and failure by the developer to pay the electricity charges.

Note: The failure of sewage schemes in private developments have been the subject of complaints for many years.

The duty of the Water and Sewerage Authority is limited to the inspection of the facilities and the issue of a Completion Certificate. Apparently there is a lack of policy guidelines on the part of the Authority for the maintenance of private schemes. In many of these private developments, the Developer had failed to maintain the system after completion of the project and in many cases failure to pay electricity charges resulted in the plant becoming non-functional causing inconvenience and creating a health hazard to the occupiers and nearby residents.

OMB:0120/2002

MINISTRY OF HOUSING AND SETTLEMENTS

The Complainant who lived in the City of San Fernando had entered into an agreement with the National Housing Authority in November, 2001 for the purchase of a Duplex Unit at Medine Street in the City of San Fernando and had made a downpayment in the sum of \$20,500.00 towards the purchase. She had been negotiating with the Trinidad and Tobago Mortgage Finance Company Limited to secure the balance of the purchase price.

In January, 2002, she was informed that the Duplex Unit was no longer for sale; that she would be refunded her deposit and that she would be eligible to occupy the Unit on a rental basis.

Considering that she had suffered an injustice, she brought the matter to the attention of the Ombudsman in February, 2002. She stated that she was willing to accept the new offer only on the basis that she would eventually be allowed to purchase the Unit and that the rent should be considered as part-payment towards the purchase price.

On investigating the matter, correspondence was received from the Honourable Minister of Housing in April, 2002 that Cabinet had taken a decision that the units at Medine Street, San Fernando be sold and that the terms and conditions would be settled by the Cabinet.

The Complainant was subsequently advised that she would be accepted as a mortgagor of the Unit and was eventually allocated the Unit.

OMB:0165/2002

MINISTRY OF HOUSING AND SETTLEMENTS

The Complainant made an application to the Town and Country Planning Division of the Ministry to carry out building operations in respect of an existing building at Padmore Street, San Fernando to accommodate an office on the ground floor. He was refused permission in November, 2000 and sought a review of the decision by letter dated 23rd November, 2000. He was advised that Officers of the Division would visit the premises to view the site for which approval was being sought but this never materialized. He stated that he had been given approval previously for the extension of the building.

On investigating the matter, I was informed by the Director, Town and Country Planning Division that the decision was reviewed by the Advisory Town Planning Panel, that the site was visited prior to a determination of the matter and a recommendation was made to the Minister.

In further response to our investigation, the Director of the Town and Country Planning Division made reference to the fact that full planning permission for a commercial addition to

the existing residential building was denied on the basis that the site was allocated for residential use under land use policy for the area and that the proposed commercial use was inconsistent with land use policy for the area.

The Director further stated that the request for a review of the decision was denied by the Minister of Planning and Development, emphasizing the fact that the proposal for commercial development of the site did not conform to the land use policy for the area and that the site was allocated for residential use.

The Complainant was informed of the decision and the file was closed.

OMB:0274/1998

MINISTRY OF LOCAL GOVERNMENT
Diego Martin Regional Corporation

The Complainant, a resident of Fairways, Maraval in the Ward of Diego Martin complained that a neighbour had constructed a steel gate, a platform with two water tanks and a brick wall across a public drain at the back of her premises, the effect of which was to impede the flow of water which after every downpour backed up and flooded her premises causing damage and inconvenience to her. A site visit to the premises confirmed the hardship which the Complainant was suffering.

A meeting was held at my office on the 11th February, 1999 to resolve the complaint. Present were the Permanent Secretary and the Legal Adviser of the Ministry of Local Government and the Chief Executive Officer, the Building Inspector and the Public Health Inspector of the Diego Martin Regional Corporation.

The Complainant said that she had reported the matter to the Corporation five years previously and nothing had been done to relieve her of the hardship which she continued to suffer.

Issues were raised as to the ownership of the drain and whether the Corporation had any jurisdiction over it; and whether removal of the obstruction would make any difference to the free flow of water. The development had not been handed over to the Government and it was contended that the Corporation had no jurisdiction to enter on and remove the obstruction from the drain.

The Chief Executive Officer of the Corporation submitted that the drain was constructed many years ago preceding the complaint and as a result of further developments, the drain could not accommodate the increased volume of storm and sullage water and that the metal gate and concrete casting, because of its positioning, did not contribute to the flooding; that these were the conclusions arrived at, at a statutory meeting of the Corporation held on 31st October, 1996, and a decision was taken not to remove the platform and obstructions.

The following decisions were taken at the meeting:

- 1) That the matter be referred to the Solicitor General for an opinion on the removal of the obstruction.
- 2) That the Chief Executive Officer of the Corporation undertake to construct a wall in order to prevent flood waters from entering the complainant's premises.
- 3) That the Corporation would inform the Resident Association about the proposal to construct the wall and obtain their approval.

As a result of the delay being experienced in the implementation of the proposals referred to above, another meeting was convened on the 30th April, 2003 with representatives of the Solicitor General, the Ministry of Works and the Diego Martin Regional Corporation.

The representative of the Works Department iterated that the problem of flooding could be immediately corrected by the removal of the obstruction, by an upgrade of the maximum width of the reserve to four feet and by the erection of a concrete wall on the Complainant's premises.

The representative of the Solicitor-General requested an adjournment of six weeks in order to allow her sufficient time to review the issues and to determine the State's liability with regard to the resolution of the Complaint and the legal implications of having the Corporation demolish the illegal structures.

Finally, by a memorandum of 7th January, 2005, the Solicitor General indicated that under Section 232(c) of the Municipal Corporation Act, the Corporation had wide powers in respect of the construction and maintenance of all drains and watercourses except main and highway watercourses within the municipality, and may invoke its powers under Section 163 of the Act by issuing a Notice to the person responsible for the nuisance to indicate why the offending structure should not be removed, altered or pulled down. Further, where the person failed to show good and sufficient cause, the Corporation had the authority to demolish the offending structure.

The advice of the Solicitor-General has been brought to the attention of the Corporation and the matter is being followed up.

OMB:0341/2004

MINISTRY OF NATIONAL SECURITY
Police Service

The Complainants, who were retired police officers and who made their complaints on behalf of fellow retirees, complained that they and their fellow retirees questioned the payment of arrears of increment which they received in the year, 2003 contending that they should have been placed at a higher point on the salary scale and as a result they should have been entitled to higher retirements benefits.

On investigation of the matter, the Pensions Section, Finance Branch of the Police Service stated that the retirees had, in fact, been paid at the correct point on the salary scale following the recomputation of their respective pensions and gratuity; that the sums which were paid to them represented the amounts which were paid to all officers in consequence of the increment “buy out” that this agreement was rescinded with the result that the payments which they had received earlier in the respective sums \$723.00 had to be paid back with interest. The reply was supported by relevant documents attesting to the fact that they had been paid at the correct point in the salary scale.

The Complainants also complained that they were required to go to Police Headquarters in Port of Spain in order to receive their monthly pension slips and yearly TD4 slips resulting in travel expenses which they could ill afford.

In a reply, the Commissioner of Police gave the undertaking that immediate steps would be taken to facilitate the pensioners. A system of dispatched monthly pensioners pay slips as well as yearly TD4 slips would be introduced throughout all Divisional Headquarters to assist pensioners so that they would not have to travel to Port of Spain for the purpose. The process was likely to take approximately six months to be implemented having regard to the large volume of pensioners numbering over two thousand, five hundred (2,500) who were affected.

OMB:0222/2002

MINISTRY OF PUBLIC UTILITIES
Water & Sewerage Authority

The Complainant who carried on a business at Barataria, complained that since November, 2000 he had been requesting the installation of a meter on his premises; that he was paid a visit by officials of the Authority and soon thereafter, he began receiving bills for arrears in respect of monthly supply of water (\$474.00) and in respect of sewage services (\$237.00).

In a letter of 21st June, 2001, the Technical Co-ordinator Metering Unit of the Authority advised him that the Authority was as the time embarking on a metering program and that as soon as Phase II commenced; his request would be considered.

Because of the delay and in light of the fact that he considered his estimated billing to be too high, he brought his complaint to the attention of the Ombudsman in April, 2002.

The matter was pursued with the Authority and eventually, the Complainant was furnished with a meter in June, 2003.

OMB: T0022/2003

TOBAGO HOUSE OF ASSEMBLY
Office of the Chief Secretary
(Public Administration)

The Complainant had obtained probate of her father's will, (of which she was the executrix and sole beneficiary), on the 5th September, 2003.

Comprised in the estate was a property which the deceased had mortgaged to a local bank in order to secure a sum of money which he obtained on loan. Having defaulted in meeting payments due on the loan, the bank was in the process of putting up the property for sale in order to recover the balance of the loan.

The deceased, who was a public servant, had retirement benefits due to him at the time of his death which benefits were comprised in his estate. The Complainant depended on these benefits in order to liquidate the debt due to the bank. When she experienced difficulties in recovering these benefits, she brought her complaint to the attention of the Ombudsman.

On investigation of the matter, it was discovered that the documents required by the Comptroller of Accounts in order to facilitate payment of the retirement benefits were in the possession of the Industrial Relations Section of the Tobago House of Assembly. Arrangements were made to have them expedited to the Comptroller of Accounts. The result was that the Complainant received the moneys due to the deceased and was able to forestall a sale of the property by the bank.

OMB:T 0031/2004

TOBAGO HOUSE OF ASSEMBLY
Division of Infrastructure and Public Utilities
(Licensing Department)

The Complainant was unable to locate his Driver's Permit. He presumed that it was lost and applied to the Licensing Authority in Tobago for a duplicate copy for which there was a charge of \$40.00. However, upon submission of his application, he was informed that the records revealed that the permit had expired and he was informed that the cost of renewal was the sum of five hundred dollars (\$500.00) which sum he paid in order to obtain a renewal of the permit.

However, he discovered the permit sometime afterwards and made efforts to recover the sum of \$460.00 being the difference of what he had paid for obtaining a renewal of the permit and the sum of \$40.00 being the cost of a duplicate copy of the permit. When his attempts to recover the overpayment failed, he brought his complaint to the attention of the Ombudsman.

On investigation of the matter, it was revealed that no funds were provided in the Estimates for such a contingency and the Licensing Department was in the process of applying for funds in order to facilitate a refund of the amount to the Complainant.

The matter is being pursued.

OMB:0275/1999

MINISTRY OF WORKS AND TRANSPORT

The Complainant was the son of G.K. who died in 1977. G.K. was a contractor who was awarded government contracts during his lifetime.

The complainant obtained Letters of Administration of G..K.'s estate on 20th November, 1992. He complained that outstanding payments from Government were due to G.K.'s estate at the time of his death in respect of work which he had done at the Eastern Caribbean Farm Institute at Mausica Road, Centeno. However, he was unable to provide any evidence as to what sum was owing and sought the assistance of the Ombudsman in locating records from the Ministry.

The complainant also produced a copy of a letter written by the deceased's solicitors addressed to the Permanent Secretary of the Ministry of Works dated 7th October, 1971 in which the deceased was claiming the balance of the amount outstanding in respect of the contract, the sum of \$42,604.18.

A further issue was raised as to whether the claim became statute-barred as a result of effluxion of time.

In an opinion given by the Solicitor General in 2002 in response to a claim by the Complainant's solicitors, the former stated that the claim had become statute-barred since Section 18 of Act No. 36 of 1997 stated:

“...this Act applies to proceedings by or against the State in the manner as it applies to proceedings between citizens.”

The Solicitor General further stated that whether the claim was statute-barred or not, the State employed the deceased's services, the work was completed and it was only reasonable and morally just that he should have been paid for the services he had rendered.

The Complainant eventually received the amount claimed and was satisfied with the result.

MINISTRY OF WORKS AND TRANSPORT

The Complainant who was employed as a labourer by the Ministry of Works and Transport for over twenty-nine years was convicted in 1995 of a criminal offence, unrelated to any criminal act committed in the course of his employment or at his place of employment.

On his release from prison, having attained the age of 59 years, he applied for his retirement benefits but was denied same. The refusal was based on a judgment of the Industrial Court which concerned the dismissal of a worker employed by the Public Service Transport Corporation who was absent from his duties for three consecutive days without permission. The worker had been absent because he had been convicted of a criminal offence which had occurred on the Corporation's property. He had been sentenced to prison for seven days. His dismissal was based on the ground that he "*could not claim the lawful consequences of his own criminal act as justifiable reason for his absence from work.*" The refusal was also based on a Circular issued by the Chief Personnel Officer in 1991 which stipulated that previous service could not be considered for purposes of the Collective Agreement and if re-employed, such employment should be regarded as a new contract of service. The fact is, however, that the Complainant was not seeking re-employment but retirement benefits for his length of service and the fact that he had attained retirement age at the date of his application.

In a final response by the Chief Personnel Officer dated December 30, 2002, it was stated that after careful consideration, it was regretted that no retirement benefits would be given to the Complainant.

In frustration, the Complainant petitioned His Excellency the President who referred the matter to the Chief Personnel Officer for re-consideration.

Finally, in July, 2004, the Complainant was presented with a cheque in the sum of \$20,000.00 as an "*ex gratia*" allowance.

Note: The judgment of the Industrial Court was not concerned with a person receiving retirement benefits when it was due to him. It was limited to a person who reported for duty after an absence of more than three consecutive days without permission, the effect of which was that he was deemed to have abandoned his job.

SUMMARY OF OTHER COMPLAINTS RECEIVED IN 2004

Ministry of Education

- ⊕ Delay in obtaining Liability Statement.
- ⊕ Delay in obtaining acting allowance, increment payment, outstanding benefits and arrears of COLA.
- ⊕ Unable to get death benefit on behalf of daughter.
- ⊕ Difficulty in gaining employment as a Teacher.
- ⊕ Record of employment incorrect; as a result not qualifying for promotion.
- ⊕ Unable to receive pension because the principal refuses to sign documents.

Ministry of Finance

- ⊕ Delay in the payment of income tax refund.
- ⊕ Delay by Customs and Excise to release vehicle from the port.
- ⊕ Delay in the payment of retirement benefits by the Comptroller of Accounts.
- ⊕ Querying penalties by the Board of Inland Revenue for the period individual did not work.

Magistracy

- ⊕ Delay in getting a date to attend court.
- ⊕ Never received the money that the court record showed as being collected.
- ⊕ Delay in obtaining Notes of Evidence.
- ⊕ Questioning the legality of bail being changed from bail with a surety to approved bail.

Judiciary

- ⊕ Wants a review of trial.
- ⊕ Dissatisfied with the sentencing handed down by judge.
- ⊕ Assistance to obtain outstanding payment awarded by the court.

Ministry of Health

- ⊕ Seeking compensation for injury under the Workmen's Compensation Act.
- ⊕ Assistance to obtain retirement grant.

North West Regional Health Authority

- ⊕ Assistance to retrieve money that was given to nurse for safe keeping.
- ⊕ Assistance to obtain a death certificate.
- ⊕ Delay in obtaining medical report from the Port of Spain General Hospital.

South West Regional Health Authority

- ⊕ Failure to obtain outstanding payment owed.
- ⊕ Unable to get medical certificate.

County Medical Officer of Health

- ⊕ Blocked drain is causing a health hazard.
- ⊕ Rearing of sheep by neighbour is causing health hazard.
- ⊕ Water from neighbour's roof flows into property causing water logging and a health hazard.
- ⊕ sand and gravel pit operation next to house affecting health of family.

Ministry of Housing

- ⊕ Ejected from premises after making an agreement to clear outstanding arrears.
- ⊕ Assistance to obtain Deed from the National Housing Authority.

- ⊕ Unfair request to vacate apartment which was occupied.
- ⊕ Unable to obtain a house after making a down payment almost two years ago.
- ⊕ Assistance to obtain letter of comfort from the Land Settlement Agency.

Ministry Works and Transport

- ⊕ Unable to get access to records – bonds application and period of employment.
- ⊕ Inability to obtain further employment at the Ministry.
- ⊕ Wants to have inverts which were removed by neighbour restored.
- ⊕ Illegal construction causing blockage to drain resulting in flood to premises.

Ministry of Local Government

- ⊕ Blocked drains causing floods and oil from parked trucks causing a health hazard.
- ⊕ Lack of street light in area.
- ⊕ Water from road flowing into property causing erosion and damage to a house.
- ⊕ Discrimination in the work place.
- ⊕ Assistance to have garbage disposal removed from her property.

Community Development, Culture and Gender Affairs

- ⊕ Assistance to stop the piracy of CD.
- ⊕ Assistance to obtain musical instruments.

Trinidad and Tobago Electricity Commission

- ⊕ Unusually high billing.
- ⊕ Assistance to get street light poles repaired or replaced.
- ⊕ Assistance to have electricity bill adjusted, since the amount shown as arrears was paid in full.
- ⊕ Wants compensation for damaged appliances.

Police Service

- ⊕ Seeking assistance to have outstanding warrants served.
- ⊕ Assistance to be listed as a special reserve police or to be refunded the costs incurred in medical examinations.
- ⊕ Delay in obtaining information on an accident report involving police officers.

National Insurance Board

- ⊕ Assistance to obtain information on why survivors benefit was stopped.

- ⊕ Assistance to obtain outstanding NIS payment for period February 2001 to June 2003.

- ⊕ NIS payment was not recorded at the National Insurance Board even though deduction were made.

- ⊕ Assistance to obtain sickness benefit.

Water and Sewerage Authority

- ⊕ Wrong classification of property causing high billings.

- ⊕ Assistance to have water supply reconnected and querying amount being billed.

- ⊕ Being threatened by WASA's debt recovery department despite non receipt of pipe borne water.

Social Welfare Division

- ⊕ Assistance to have old age pension re-instated.

- ⊕ Assistance to obtain a bed and a stove from the emergency cases fund.

Caroni (1975) Limited

- ⊕ Assistance to purchase/lease parcel of land.

- ⊕ Assistance to obtain monies contributed to pension Plan.

[This list is not exhaustive of the Complaints received during the year 2004]

APPENDICES

EXTRACTS FROM THE CONSTITUTION
OF
TRINIDAD AND TOBAGO
CHAPTER 1

The Recognition and Protection of Fundamental Human Rights
and Freedoms
Rights enshrined

**Recognition and
declaration of rights
and freedoms**

4. It is hereby recognized and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely:-
- (a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;
 - (b) the right of the individual to equality before the law and the protection of the law;
 - (c) the right of the individual to respect for his private and family life;
 - (d) the right of the individual to equality of treatment from any public authority in the exercise of any functions;
 - (e) the right to join political parties and to express political views;
 - (f) the right of a parent or guardian to provide a school of his own choice for the education of his child or ward;
 - (g) freedom of movement;
 - (h) freedom of conscience and religious belief and observance;
 - (i) freedom of thought and expression;
 - (j) freedom of association and assembly;
- and
- (k) freedom of the press.

**Protection of
rights and
freedoms**

5. (1) Except as is otherwise expressly provided in this Chapter and in section 54, no law may abrogate, abridge or infringe or authorise the abrogation, abridgment or infringement of any of the rights and freedoms hereinbefore recognized and declared.
- (2) Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not -
- (a) authorise or effect the arbitrary detention, imprisonment, or exile of any person;
 - (b) impose or authorise the imposition of cruel and unusual treatment or punishment;
 - (c) deprive a person who has been arrested or detained;
 - (i) of the right to be informed promptly and with sufficient particularity of the reason for his arrest or detention;
 - (ii) of the right to retain and instruct without delay a legal adviser of his own choice and to hold communication with him;
 - (iii) of the right to be brought promptly before an appropriate judicial authority;
 - (iv) of the remedy by way of habeas corpus for the determination of the validity of his detention and for his release if the detention is not lawful;
 - (d) authorise a court, tribunal commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-incrimination and, where necessary to ensure such protection, the right to legal representation;
 - (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;
 - (f) deprive a person charged with a criminal offence of the right -

- (i) to be presumed innocent until proved guilty according to law, but this shall not invalidate a law by reason only that the law imposes on any such person the burden of proving particular facts;
 - (ii) to a fair and public hearing by an independent and impartial tribunal; or
 - (iii) to reasonable bail without just cause;
- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak English; or
- (h) deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the aforesaid rights and freedoms.

EXTRACT FROM THE CONSTITUTION OF TRINIDAD AND TOBAGO

ACT NO. 4 OF 1976

PART 2

OMBUDSMAN

- | | | |
|---|-----|--|
| Appointment and conditions of office | 91. | (1) There shall be an Ombudsman for Trinidad and Tobago who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the Public Service or otherwise nor engage in any occupation for reward other than the duties of his office. |
| | | (2) The Ombudsman shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition. |
| | | (3) The Ombudsman shall hold Office for a term not exceeding five years and is eligible for re-appointment. |
| | | (4) Subject to subsection (3) the Ombudsman shall hold office in accordance with section 136. |
| | | (5) Before entering upon the duties of his Office, the Ombudsman shall take and subscribe the oath of office before the Speaker of the House of Representatives. |
| Appointment of staff of Ombudsman | 92. | (1) The Ombudsman shall be provided with a staff adequate for the efficient discharge of his functions. |
| | | (2) The staff of the Ombudsman shall be public officers appointed in accordance with section 121(8). |
| Functions of Ombudsman | 93. | (1) Subject to this section and to sections 94 and 95, the principal function of the Ombudsman shall be to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority. |
| | | 2) The Ombudsman may investigate any such matter in any of the following circumstances - |

- (a) where a complaint is duly made to the Ombudsman by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;
- (b) where a member of the House of Representatives requests the Ombudsman to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice;
- (c) in any other circumstances in which the Ombudsman considers that he ought to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.

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

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

Restrictions on matters for investigation

94.

- (1) In investigating any matter leading to, resulting from or connected with the decision of a Minister, the Ombudsman shall not inquire into or question the policy of the Minister in accordance with which the decision was made.
- (2) The Ombudsman shall have power to investigate complaints of administrative injustice under section 93 notwithstanding that such complaints raise questions as to the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals.

- (3) Where in the course of an investigation it appears to the Ombudsman that there is evidence of any corrupt act by any public officer or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.
- (4) The Ombudsman shall not investigate -
 - (a) any action in respect of which the Complainant has or had
 - (i) a remedy by way of proceedings in a court; or
 - (ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a court; or
 - (b) any such action, or actions taken with respect to any matter, as is described **Third Schedule** Third Schedule.
- (5) Notwithstanding subsection (4) the Ombudsman
 - a) may investigate a matter notwithstanding that the Complainant has or had a remedy by way of proceedings in a court if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;
 - (b) is not in any case precluded from investigating any matter by reason only that it is open to the Complainant to apply to the High Court for redress under section 14 (which relates to redress for contravention of the provisions for the protection of fundamental rights).

95. In determining whether to initiate, continue or discontinue an investigation, the Ombudsman shall, subject to sections 93 and 94, act in his discretion, the Ombudsman may refuse to initiate or may discontinue an investigation where it appears to him that -

- (a) a complaint relates to action of which the Complainant has knowledge for more than twelve months before the complain was received by the Ombudsman.

- (b) the subject matter of the complaint is trivial;
- (c) the complaint is frivolous or vexatious or is not made in good faith; or
- (d) the Complainant has not a sufficient interest in the subject matter of the complaint.

- 96.
- (1) Where a complaint or request for an investigation is duly made and the Ombudsman decides not to investigate the matter or where he decides to discontinue investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision. **Report on Investigation**
 - (2) Upon completion of an investigation the Ombudsman shall inform the department of government or the authority concerned of the results of the investigation and if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of government or the authority of the reasons for his opinion and make such recommendations as he sees fit. The Ombudsman may in his original recommendations, or at any later stage if he thinks fit, specify the time within which the injustice should be remedied.
 - (3) Where the investigation is undertaken as a result of a complaint or request, the Ombudsman shall inform the person who made the complaint or request of his findings.
 - (4) Where the matter is in the opinion of the Ombudsman of sufficient public importance or where the Ombudsman has made a recommendation under sub-section (2) and within the time specified by him no sufficient action has been taken to remedy the injustice, then, subject to such provision as may be made by Parliament, the Ombudsman shall lay a special report on the case before Parliament.
 - (5) The Ombudsman shall make annual reports on the performance of his functions to Parliament which shall include statistics in such form and in such detail as may be prescribed of the complaints received by him and the results of his investigation.

**Power
to obtain
Evidence**

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

**Prescribed
Matters
concerning
Ombudsman**

98. (1) Subject to subsection (2), Parliament may make provision -
- (a) for regulating the procedure for the making of complaints and requests to the Ombudsman and for the exercise of the functions of the Ombudsman;
 - (b) for conferring such powers on the Ombudsman and imposing such duties on persons concerned as are necessary to facilitate the Ombudsman in the performance of his functions; and
 - (c) generally for giving effect to the provisions of this Part.
- (2) The Ombudsman may not be empowered to summon a Minister or a Parliamentary Secretary to appear before him or to compel a Minister or a Parliamentary Secretary to answer any questions relating to any matter under investigation by the Ombudsman.
- (3) The Ombudsman may not be empowered to summon any witness to produce any Cabinet papers or to give any confidential income tax information.
- (4) No Complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Ombudsman.
- (5) No proceedings, civil or criminal, may lie against the Ombudsman, or against any person holding an office or appointment under him for anything he may do or report or say in the course of the exercise or intended exercise of the

functions of the Ombudsman under this Constitution, unless it is shown that he acted in bad faith.

- (6) The Ombudsman, and any person holding office or appointment under him may not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.
- (7) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any enquiry by or proceedings before an Ombudsman under this Constitution is privileged in the same manner as if the enquiry or proceedings were proceedings in a Court.
- (8) No proceedings of the Ombudsman may be held bad for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of an Ombudsman is liable to be challenged, reviewed, quashed or called in question in any Court.

THIRD SCHEDULE
MATTERS NOT SUBJECT TO INVESTIGATION

1. Action taken in matters certified by the Attorney General to affect relations or dealings between the Government of Trinidad and Tobago and any other Government or any International Organization.
2. Action taken in any country or territory outside Trinidad and Tobago by or on behalf of any officer representing or acting under the authority of the Government of Trinidad and Tobago.
3. Action taken under any law relating to extradition or fugitive offenders.
4. Action taken for the purposes of investigating crime or of protecting the security of the State.
5. The commencement or conduct of civil or criminal proceedings before any court in Trinidad and Tobago or before any international court or tribunal.
6. Any exercise of the power of pardon.
7. Action taken in matters relating to contractual or other commercial transactions, being transactions of a department of government or an authority to which section 93 applies not being transactions for or relating to –
 - (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;

- (b) the disposal as surplus of land acquired compulsorily or in circumstances in which it could be acquired compulsorily.
- 8. Actions taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service in any office or employment in the public service or under any authority as may be prescribed.
- 9. Any matter relating to any person who is or was a member of the armed forces of Trinidad and Tobago in so far as the matter relates to -
 - (a) the terms and conditions of service as such member; or
 - (b) any order, command, penalty or punishment given to or affecting him in his capacity as such member.
- 10. Any action which by virtue of any provision of this Constitution may not be enquired into by any Court.

LAWS OF TRINIDAD AND TOBAGO
CHAPTER 2:52
OMBUDSMAN ACT

**An Act to make provision for giving effect to
Part 2 of Chapter 6 of the Constitution**

(Assented to 24th May, 1977)

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

**Short Title
Mode of
Complaint**

1. This Act may be cited as the Ombudsman Act.

2. (1) All complaints to the Ombudsman and requests for investigation by him shall be made in writing.

(2) Notwithstanding anything provided by or under any enactment, where any letter written by any person detained on a charge or after conviction of any offence is addressed to the Ombudsman, it shall be immediately forwarded, unopened to the Ombudsman by the person for the time being in charge of the place where the writer is detained.

**Procedure
in respect
of investigation**

3. (1) Where the Ombudsman proposes to conduct an investigation under section 93 (1) of the Constitution he shall afford to the principal officer of the department or authority concerned, an opportunity to make, orally or in writing as the Ombudsman thinks fit, representations which are relevant to the matter in question and the Ombudsman shall not, as a result of such an investigation, make any report or recommendation which may adversely affect any person without his having had an opportunity to make such representations.

(2) Every such investigation shall be conducted in private.

(3) It shall not be necessary for the Ombudsman to hold any hearing and, subject as hereinbefore provided, no person shall be entitled as of right to be heard by the Ombudsman. The Ombudsman may obtain information from such persons and in such manner, and make such inquiries as he thinks fit.

(4) Where, during or after any investigation, the Ombudsman is of the opinion that there is evidence of any breach of duty, misconduct or criminal offence on the part of any officer or employee of any department or authority to which section 93 of the Constitution applies, the Ombudsman may refer the matter to the Authority competent to take such disciplinary or other proceedings against him as may be appropriate.

- (5) Subject to this Act, the Ombudsman may regulate his procedure in such manner as he considers appropriate in the circumstances of the case.
- (6) Where any person is required under this Act by the Ombudsman to attend before him for the purposes of an investigation, the Ombudsman shall cause to be paid to such person out of money provided by Parliament for the purpose, the fees, allowances and expenses, subject to qualifications and exceptions corresponding to those, that are for the time being prescribed for attendance in the High Court, so, however, that the like functions as are so prescribed and assigned to the Registrar of the Supreme Court of Judicature shall, for the purposes of this sub-section, be exercisable by the Ombudsman and he may, if he thinks fit, disallow, in whole or in part, the payment of any amount under this subsection.
- (7) For the purposes of section 93 (2) of the Constitution a complaint may be made by a person aggrieved himself or, if he is dead or for any reason unable to act for himself, by any person duly authorized to represent him.
- (8) Any question whether a complaint or a request for an investigation is duly made under this Act or under Part 2 of Chapter 6 of the Constitution shall be determined by the Ombudsman.

Evidence

- 4. (1) The power of the Ombudsman under Section 97 of the Constitution to summon witnesses and to compel them to give evidence on oath and to produce documents shall apply whether or not the person is an officer; employee or member of any department or authority and whether or not such documents are in the custody or under the control of any department or authority.
- (2) The Ombudsman may summon before him and examine on oath:
 - (a) any person who is an officer or employee or member of any department or authority to which section 93 of the Constitution applies or any authority referred to in the Schedule to this Act and who in the Ombudsman's opinion is able to give any relevant information;
 - (b) any complainant; or
 - (c) any other person who in the Ombudsman's opinion is able to give any relevant information, and for that purpose may administer an oath. Every such examination by the Ombudsman shall be deemed to be a judicial proceeding for the purposes of the Perjury Ordinance.

- (3) Subject to subsection (4) no person who is bound by the provisions of any enactment, other than the Official Secrets Act, 1911 to 1939 of the United Kingdom In so far as it forms part of the law of Trinidad and Tobago, to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to or answer any questions put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or paper or thing relating to it, where compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.
 - (4) With the previous consent in writing of any complainant, any person to whom subsection (3) applies may be required by the Ombudsman to supply any information or answer any question or produce any document or paper or thing relating only to the complainant, and it shall be the duty of the person to comply with that requirement.
 - (5) Except on the trial of any person for an offence under the Perjury Act in respect of his sworn testimony, or for an offence under section 10, no statement made or answer given by that or any other person in the course of any inquiry or any proceedings before the Ombudsman under the Constitution or this Act shall be admissible in evidence against any person in any court or at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.
 - (6) No person shall be liable to prosecution for an offence against the Official Secrets Act, 1911 to 1939 of the United Kingdom, or any written law other than this Act by reason of his compliance with any requirement of the Ombudsman under this section.
5. (1) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document or paper or thing -
- (a) might prejudice the security, defence or international relations of Trinidad and Tobago
 - (b) (including Trinidad and Tobago relations with the Government of any other country or with any international organizations);
 - (c) will involve the disclosure of the deliberations of Cabinet; or

(d) will involve the disclosure of proceedings of Cabinet or any Committee of Cabinet, relating to matters of a secret or confidential nature, and would be injurious to the public interest, the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or paper, or thing to be produced.

(2) Subject to subsection (1), no rule of law which authorises or requires the withholding of any document or paper, or the refusal to answer any question, on the ground that the disclosure of the document or paper or the answering of the question would be injurious to the public interest shall apply in respect of any investigation by or proceedings before the Ombudsman.

Secrecy of information

6. A person who performs the functions appertaining to the Office of the Ombudsman or any office or employment thereunder -

(a) shall regard as secret and confidential all documents, information and things which have been disclosed to any such person in the execution of any provisions of sections 93 and 96 of the Constitution, so, however, that no disclosure made by any such person in proceedings for an offence under section 10, or under the Perjury Ordinance by virtue of section 4 (2) or which the Ombudsman considers it requisite to make in the discharge of any of his functions and for the purpose of executing any of the said provisions of section 3 (4) or section 9, shall be deemed inconsistent with any duty imposed by this paragraph; and

(b) shall not be called upon to give evidence in respect of, or produce, any such documents, information or things in any proceedings, other than proceedings mentioned in the exception to paragraph (a).

Notice of entry on premises

7. Before entering upon any premises pursuant to section 97 (2) of the Constitution the Ombudsman shall notify the principal officer of the department or the authority which the premises are occupied.

Delegation of powers

8. (1) With the prior approval in each case of the Prime Minister, functions hereinbefore assigned to the Ombudsman may from time to time, by direction under his hand, be delegated to any person who is appointed to any office or to perform any function referred to in section 6.

(2) No such delegation shall prevent the exercise of any power by the Ombudsman.

- (3) Any such delegation may be made subject to such restrictions and conditions as the Ombudsman may direct, and may be made either generally or in relation to any particular case or class of cases.
- (4) Any person purporting to perform any function of the Ombudsman by virtue of a delegation under this section shall, when required to do so, produce evidence of his authority to exercise the power.
- Reports**
9. (1) The Ombudsman may from time to time in the public interest publish reports relating generally to the exercise of his functions or to a particular case or cases investigated by him, whether or not the matters to be dealt with in such reports may have been the subject of a report to Parliament.
- (2) The form of statistics of complaints received by the Ombudsman and the results of his investigation required by section 96 (5) of the Constitution to be included in the annual report to Parliament by the Ombudsman on the performance of his functions shall be prescribed by regulations made under section 12.
10. A person is liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months who -
- (a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise of his powers under this Act;
- (b) without lawful justification or excuse refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act;
- (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his powers under this Act; or
- (d) in a manner inconsistent with his duty under section 6 (a), deals with any documents, information or things mentioned in that paragraph.
- Prescription of authorities subject to the Ombudsman's jurisdiction**
11. (1) The authorities mentioned in the Schedule are authorities to which section 93 (3) (d) of the Constitution applies.
- (2) The President may, by Order, amend the Schedule by the addition thereto or deletion therefrom of any authorities or the substitution therein, for any authorities of other authorities.
- Regulations**
12. The President may make regulations for the proper carrying into effect of this Act, including in particular, for prescribing anything required or authorised to be prescribed.

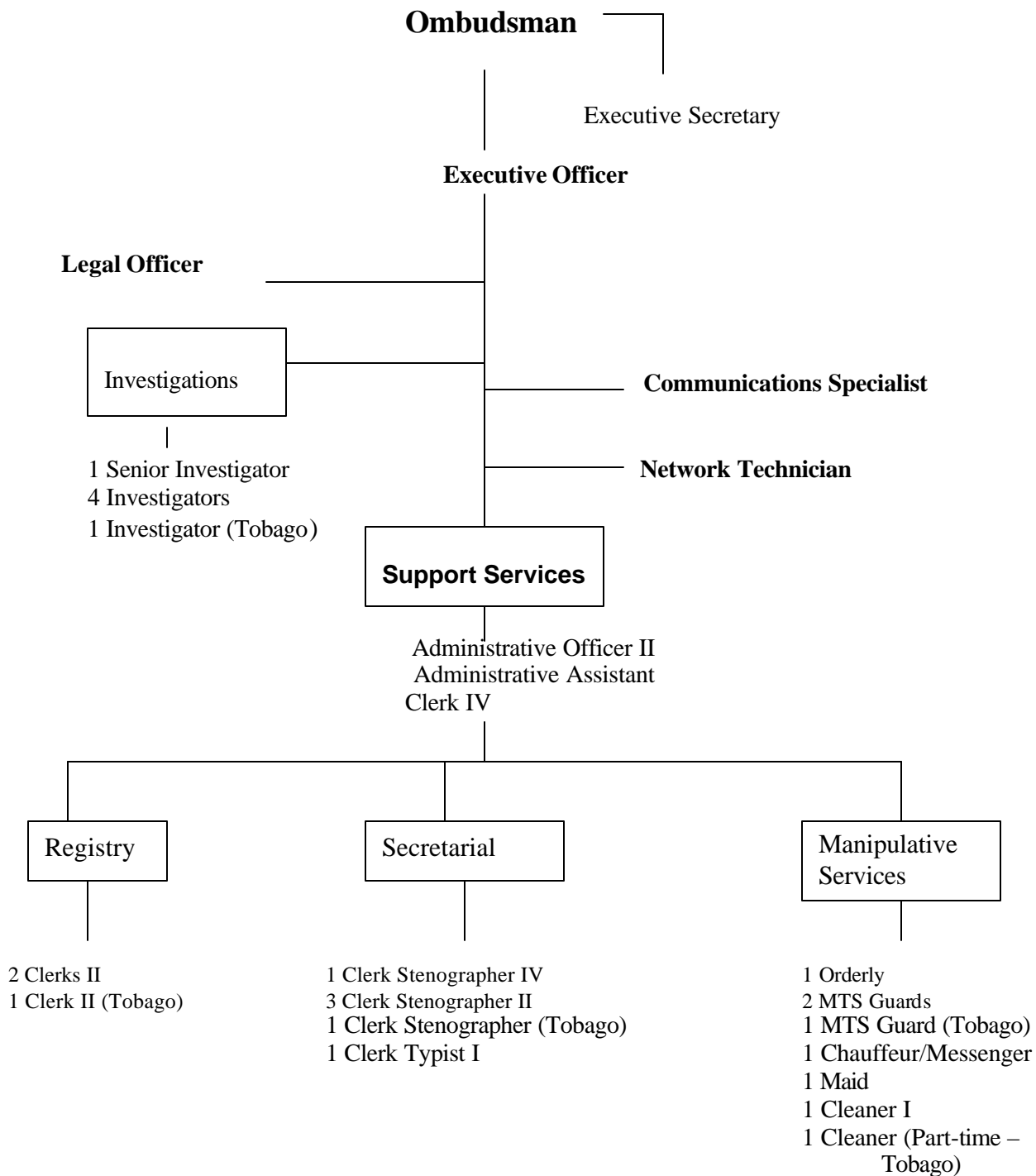
The Freedom of Information Act, 1999

38A (1) A person aggrieved by the refusal of a public authority to grant an access official document, may, within twenty-one days of receiving notice of the refusal under section 23(1), complain in writing to the Ombudsman and the Ombudsman shall, after examining the document if it exists, make such recommendations with respect to the granting of access to the document as he thinks fit.

**Review by the
Ombudsman**

- (2) In recommendations under subsection (1), the Ombudsman-
 - a) is not required to include any matter that is of such a nature that its inclusion in a document of a public authority would cause that document to be an exempt document;
 - b) may state the recommendations in terms which neither confirm or deny the existence of any document, if the recommendations relate to a request for access to a document which is an exempt document under section 24, 25, or 28 or which, if it existed, would be an exempt document under section 24, 25 or 28.
- (3) A public authority is required to consider the recommendations of the Ombudsman and, to such extent as it thinks fit, exercise its discretion in giving effect to the recommendations.

ORGANIZATIONAL CHART



Cabinet approved the recommendations of the Public Management Consulting Division (PMCD) of the Ministry of Public Administration and created the following additional posts in 2003:

- 1 Director, Investigations and Complaints Resolutions
- 1 Senior Investigator
- 3 Investigators

These posts have not yet been filled.