

ANNUAL REPORT

The Ombudsman of Barbados 2010



TABLE OF CONTENTS

Letter of Transmittal	3
Logo of the Ombudsman of Barbados	4
Map of Bridgetown	6
The Message from the Ombudsman	7
Historical Background	8
Functions of the Ombudsman	8
Analysis of Complaints Received in the Year 2010	9
Complaints against Barbados Water Authority	13
Complaints against Town & Country Development Planning Office	14
Complaints against the National Insurance Corporation.....	15
Complaints against the Royal Barbados Police Force	16
Complaints against National Insurance Department	17
Complaints against Inland Revenue Department	19
Complaints against Her Majesty's Prisons – Dodds	20
Caribbean Ombudsman association (CAROA)	21
Sample Complaints	21
Appendices	

LETTER OF TRANSMITTAL

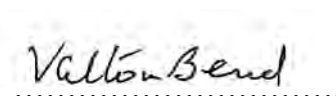
His Honour The President
The Senate
Parliament Buildings
Bridgetown

His Honour The Speaker
The House of Assembly
Parliament Buildings
Bridgetown

Dear Mr. President and Mr. Speaker:

I have the honour to submit the Annual Report of the activities of the Office of the Ombudsman covering the calendar year January 1, 2010 to December 31, 2010 to facilitate it's laying before Parliament. The Report is made pursuant to Section 13(6) of the Ombudsman Act, Cap. 8A of the Laws of Barbados.

Yours faithfully,

A handwritten signature in dark ink, reading "Valton D. Bend", is written over a horizontal dotted line.

VALTON D. BEND
Ombudsman

THE LOGO OF THE OMBUDSMAN FOR BARBADOS



The logo of the Office of the Ombudsman for Barbados was designed with a great deal of care and consideration; the symbolic significance of the logo's elements is as follows:

Colours: The colours of the Barbadian flag, ultramarine and gold, are the primary colours used in the rendering of the logo. The ultramarine reflects our sea and sky while the gold suggests the sand of our beaches.

Black and white: The central portion of the logo is rendered in black and white, with the left being the photographic negative of the right. These colours are representative of the Ombudsman's commitment to champion the cause of all Barbadians irrespective of colour, religion, class, gender, age or political persuasion.

Equal signs: The equal signs appear on both sides of the shield and are also photographic negatives of each other; they represent equality and the Ombudsman's commitment to act impartially and expeditiously in the handling of public grievances.

Shield: The Ombudsman is the advocate of the people and the principal aspect of his role is to shield the people of Barbados from injustice and maladministration at the hands of Government agencies.

Central figure: The abstracted form at the center of the shield represents the human and personal aspects of advocacy. The Office of the Ombudsman is not a faceless entity but a group of dedicated people committed to serve all Barbadians.

Sugar cane: Initially the source of our enslavement and subsequently the source of our economic independence; sugar cane has been central to our very existence as a nation and the foundation that we now build upon. The crossed sugar cane also provides a significant historical tie with the Barbadian coat of arms.

The logo of the Office of the Ombudsman for Barbados was developed in 1998 during the tenure of Mr. Carl Ince who was at that time the Ombudsman for Barbados. This logo was designed by the Design Services Section of the International Development Division of the Barbados Investment and Development Corporation (BIDC).

The records of the office tend to indicate that the principal officers of the BIDC with whom this office collaborated were Messrs Michael Piggott and Philip Marshal.

MAP OF BRIDGETOWN



THE MESSAGE OF THE OMBUDSMAN

The essence of the Ombudsman system is to hear and determine allegations of bias, unfair treatment and maladministration against government officials. The process involves laying a complaint which alleges an infringement of the civil rights of the citizen at the hands of a government agency. The department is informed of the complaint and is invited to respond. It may be settled quickly to the satisfaction of the parties. There are complex matters that require meetings, explanations and in-depth investigation. The relevant facts are discovered. Adjustments may be made and practices affecting the rights of the citizen may be abandoned. A fair hearing is the standard employ. Resolution to some matters are based on conciliation negotiation and mediation.

I am satisfied that departments generally follow acceptable standards in the delivery of service to the public. The areas giving rise to complaint are easily rectified. Members of the public seeking assistance often express thanks and satisfaction for the service rendered.

Public officials are reminded that they have a responsibility to provide excellent service to the public. The public also have a right to expect excellent service from agencies of government. The benefit of providing excellent service is the avoidance of litigation and costs against central government. A satisfied public is the yardstick of good administration. Good administration promotes democracy and ensures peace, order and good government in society.

The Office of the Ombudsman will continue to work with departments of government in a spirit of co-operation. It will assist each agency to live up to its creed and maintain its integrity. As a stakeholder, in the administration our focus is to ensure that genuine service is delivered to members of the public. Their overall satisfaction is a measure of our success. Our common purpose is to ensure that the principles of good governance are observed, maintained and upheld, confidence in our democracy and reliance on our institutional integrity would not be compromised.

VALTON D. BEND
Ombudsman

HISTORICAL BACKGROUND

The Office of the Ombudsman for Barbados was established in 1987 in spite of the fact that the legislation had been enacted some six years earlier. The Ombudsman's Office was established to provide a safeguard against maladministration and to protect its rights and interests of citizens. The Ombudsman approach is not new, since the redressing or resolving of complaints and or grievances of the people resulting from illegal or unfair administrative practices has long been the practice in this country. This fact may be best explained by an examination of many items of local legislation e.g. the National Insurance and Social Security Act and the regulations made pursuant to his act Cap 47 of the Laws of Barbados or the Town and Country Development Act Cap 240. These items of legislation clearly provide mechanisms by which the public who feel aggrieved by the action or inaction of state bureaucrats of such agencies at no financial cost to the state may appeal the decisions of these agencies.

FUNCTIONS OF THE OMBUDSMAN

Section 6(1) of the Ombudsman Act makes provision for the Ombudsman to investigate complaints from members of the public after he has received a written complaint.

In addition, this section of the legislation also provides that if he is of the opinion that, or if either House of Parliament resolves that there are reasons of special importance which made investigation (s) by the Ombudsman desirable in the public interest, he so does.

The main functions of the Ombudsman include:-

1. Investigation and the settling of grievances against government agencies.
2. Making recommendations for corrective measures when investigations reveal unlawful or unreasonable administrative procedures; and
3. Provide recommendations where appropriate for the improvement of administrative systems and their operations.

ANALYSIS OF COMPLAINTS RECEIVED IN THE YEAR 2010

During the calendar year 2010 two hundred and eighteen (218) complaints were made to the Ombudsman for Barbados by members of the Barbadian public. It should be noted that of these, no complaints were resolved in the year under review. In addition, 107 of the unsolved complaints had been brought forward from earlier years, some 238 have also been resolved in the calendar year 2009.

Fig. 1

The agencies which complaints were made to this Office in 2010

<u>Departments</u>	<u>Complaints</u>
Attorney General's Chambers	2
Barbados Defence Force	1
Barbados Fire Service	1
Barbados Postal Service	1
Barbados Tourism Authority	2
Barbados Transport Board	6
Barbados Water Authority	22
Court System	1
Data Processing Department	1
Geriatric Hospital	3
Grantley Adams International Airport	1
Her Majesty's Prisons	7
Immigration Department	5
Inland Revenue Department	8
Land & Survey	1
Licensing Authority	1
Marshals	1
Ministry of Agriculture & Rural Development	2
Ministry of the Civil Service	1
Ministry of Education, Youth Affairs & Sports	3
Ministry of Finance	2
Ministry of Health	5
Ministry of Housing, Lands & the Environment	3
Ministry of Public Works & Transport	11
Ministry of Social Transformation	3
National Conservation Commission	1
National Housing Corporation	5
National Insurance Department	17
Outside Jurisdiction	59

The agencies which complaints were made to this Office in 2010

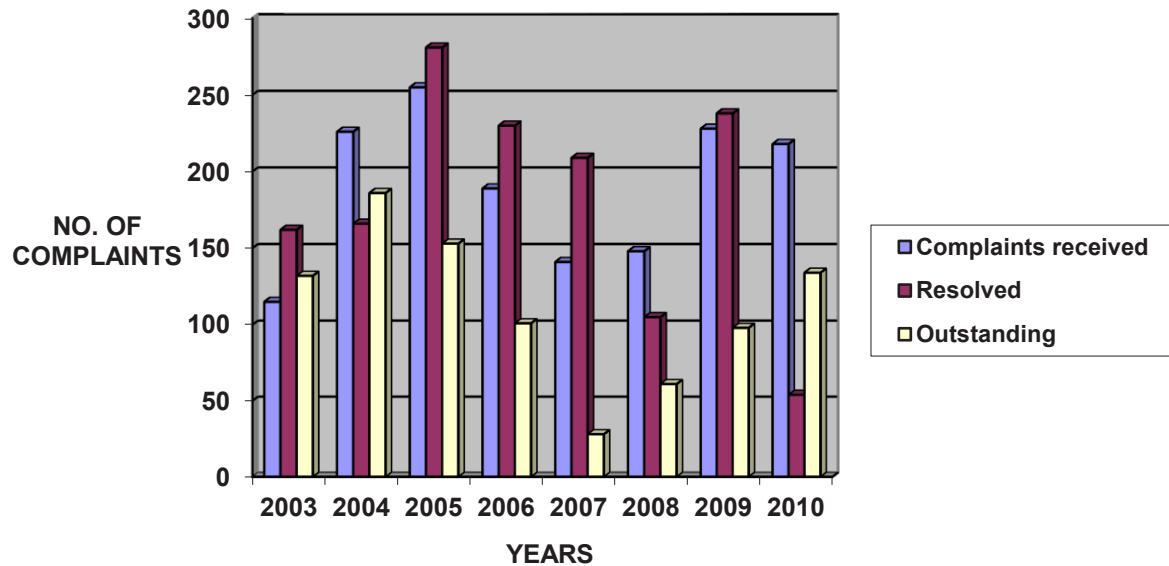
<u>Departments</u>	<u>Complaints</u>
Personnel Administration Division	7
Police Department	15
Psychiatric Hospital	2
Queen Elizabeth Hospital	3
Registration Department	1
Rural Development Commission	2
School Meal Department	1
Town and Country Development Planning Office	3
Training Division	1
Treasury	1
Urban Development Commission	3
Vat Office	1
Welfare Department	2
Total	218

Fig. 2 shows an analysis of the complaints in numbers received in the year 2010 compared with those for the years 2003 through to 2010.

Fig 2

Year	2003	2004	2005	2006	2007	2008	2009	2010
Complaints Brought forward	183	132	186	153	101	28	61	98
Complaints received	115	226	255	189	141	148	228	218
Withdrawn	1	0	3	5	2	2	6	8
Outside Jurisdiction	3	6	4	6	3	8	47	58
Resolved	162	166	281	230	209	105	238	52
Put Away	-	-	-	-	-	-	-	64
Outstanding	132	186	153	101	28	61	98	134

COMPLAINTS FOR CALLENDER YEARS 2003-2010



BARBADOS WATER AUTHORITY

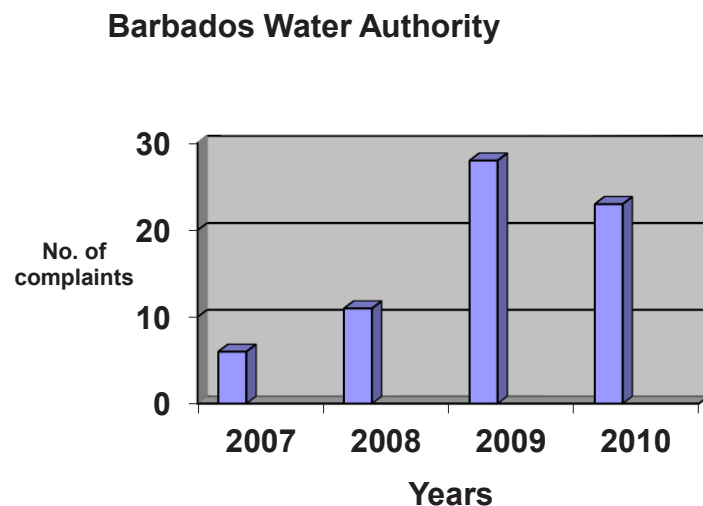
During the calendar year 2010 twenty-three (23) members of the public made complaints to this Office against the management of the Barbados Water Authority. Fig. 3 shows the number of complaints which have been made against this agency between the period for the years 2007 and 2010.

Fig. 3

Barbados Water Authority

This may be seen below graphically in the chart:

Year	2007	2008	2009	2010
No. of complaints	6	11	28	23



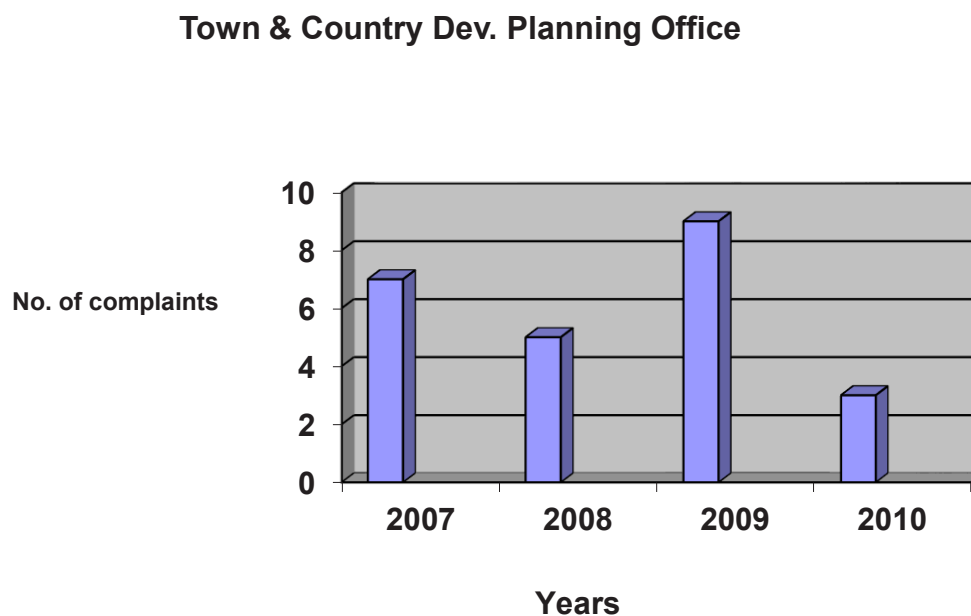
Three (3) complaints were made to this Office during the year 2010 against the management of the Town and Country Development Planning Office. This was six complaints less than the nine (9) which had been made against the agency in the year 2009

Fig 4

Town & Country Development Planning Office

This may be seen graphically in the chart below:

Year	2007	2008	2009	2010	
No. of complaints	7	5	9	3	



NATIONAL HOUSING CORPORATION

Three (3) complaints were made to this Office during the year 2010 against the management of the National Housing Corporation. The same number of complaints were made during the year 2009.

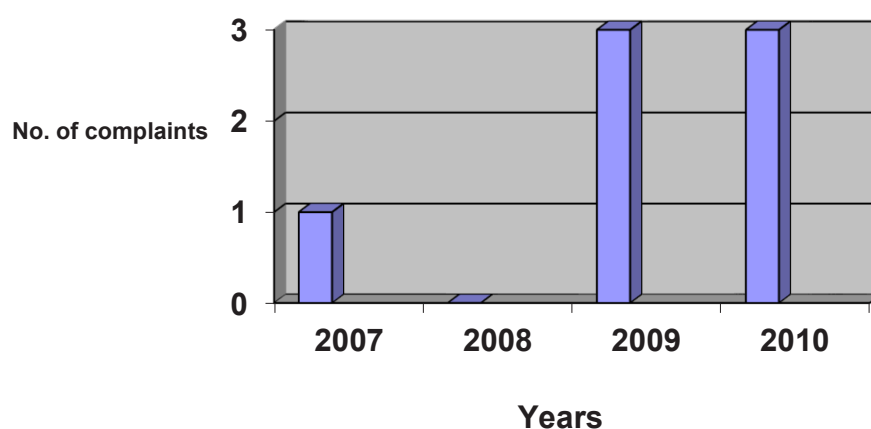
Fig. 5 below graphically shows the complaints which have been made against this agency for the years 2007 to 2010.

Fig.5

This may be seen graphically in the chart below:

Year	2007	2008	2009	2010
No. of complaints	1	0	3	3

Ministry of Housing, Lands and Rural Dev.



Sixteen (16) complaints were made to this Office during the year 2010 against the Royal Barbados Police Force. This was fourteen complaints less than the thirty (30) which had been made against the agency in the year 2009.

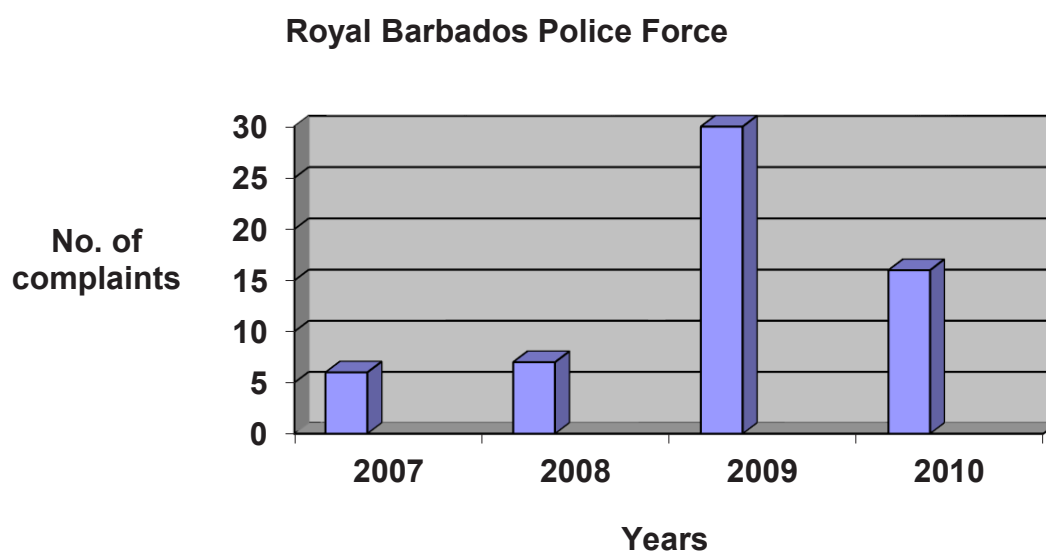
Fig. 6 below graphically shows the complaints which have been made against this agency for the years 2007 to 2010.

Fig. 6

Royal Barbados Police Force

This may be seen graphically in the chart below:

Year	2007	2008	2009	2010
No. of complaints	6	7	30	16



NATIONAL INSURANCE DEPARTMENT

During the calendar year 2010 a total of seventeen (17) complaints were made to this Office against the management of the National Insurance Department from members of the public. This number of complaints is three less than the twenty which were made against the agency in the year 2009.

The National Insurance Department manages the Social Security payments for all Barbadians in respect of: –

- (a) Old Age Non-Contributory Pension
- (b) Old Age Contributory Pension
- (c) Sickness Benefits
- (d) Survivors Benefits
- (e) Maternity Benefits
- (f) Funeral Grants
- (g) Unemployment Benefits
- (h) Invalidity Benefits
- (i) Employment Injury Benefits
- (j) Disablement Benefits
- (k) Duplication of Benefits
- (l) Prescribed Degree of Disablement

This Office also plays a key function in the management of the Severance Payments to all those persons who qualify for such payments.

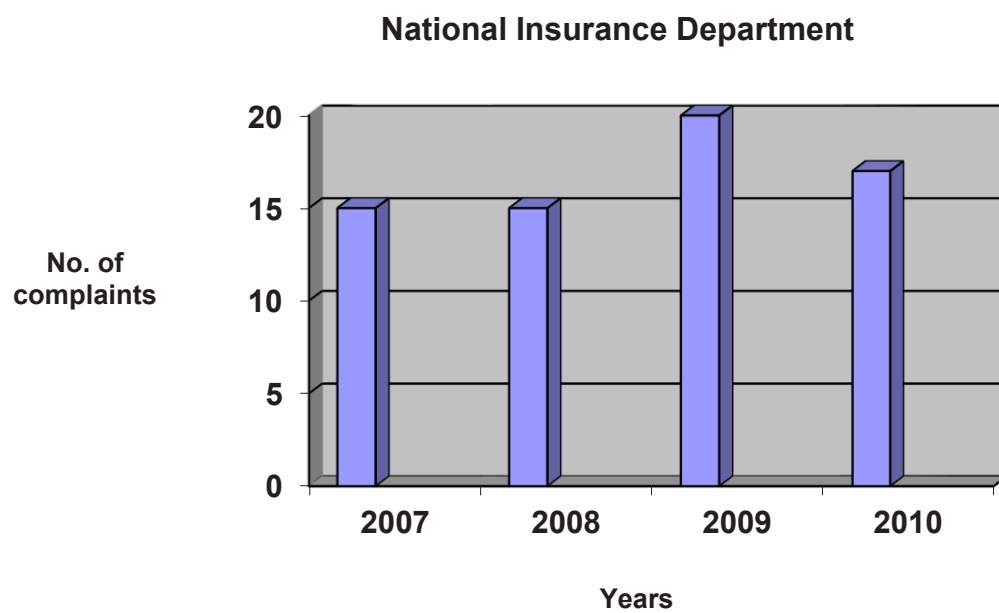
Fig. 7 below shows a breakdown of the numbers of complaints received against the management of this agency for the years 2007 – 2010.

Fig. 7

National Insurance Department

This may be seen graphically in the chart below:

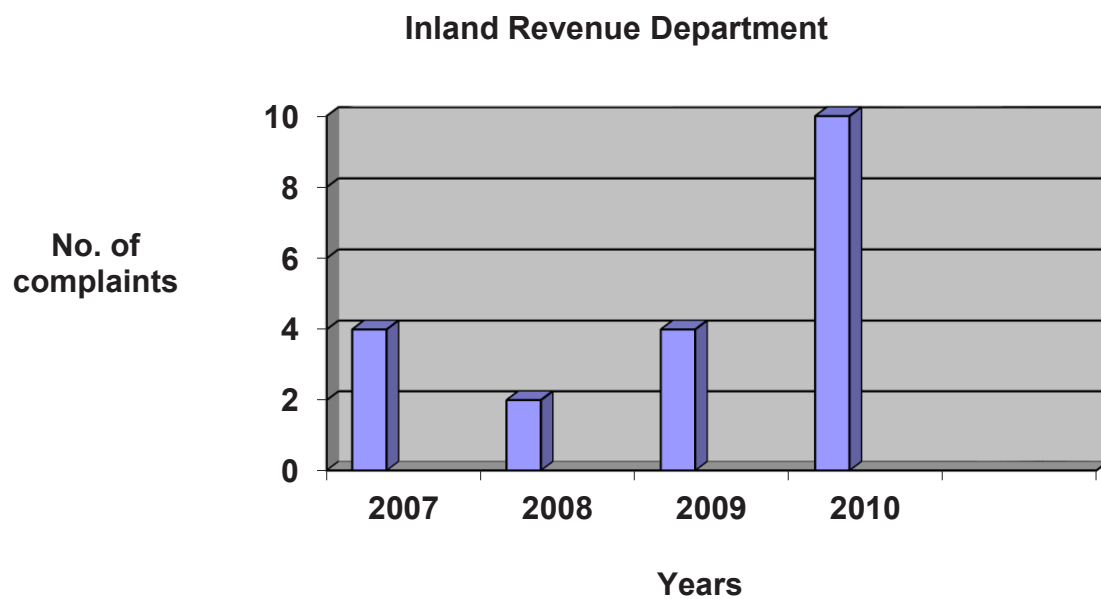
Year	2007	2008	2009	2010
No. of complaints	15	15	20	17



During the year 2010 eight (8) complaints were made to this Office against the Inland Revenue Department. This was four complaints more than the four (4) which were made against the agency in the year 2009.

Fig. 8 below graphically shows the complaints which were made against this agency for the years 2007 to 2010

Year	2007	2008	2009	2010
No. of complaints	4	2	4	8



Six (6) complaints were made to this Office during the year 2010 against Her Majesty's Prisons, Dodds. This was four (4) complaints more than the two (2) which were made against the agency in the year 2009.

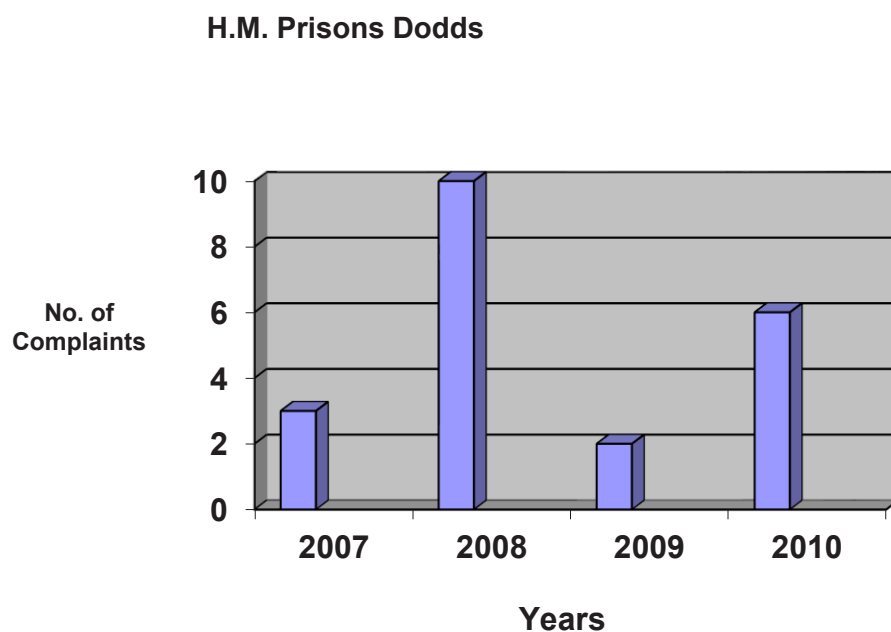
Fig. 9 below graphically shows the complaints which have been made against this agency for the years 2007 to 2010.

Fig. 9

H.M. Prisons Dodds

This may be seen below graphically in the chart:

Year	2007	2008	2009	2010
No. of complaints	3	10	2	6



CARIBBEAN OMBUDSMAN ASSOCIATION (CAROA)

The Caribbean Ombudsman Association (CAROA) extended an invitation to the Ombudsman and Investigations Officer to attend the Sixth Biennial General Conference which was held in Curacao from October 31 to November 5, 2010. The Conference was scheduled to be held at the Curacao Marriot Beach Resort and Emerald Casino. The Commonwealth Secretariat through the Commonwealth Fund for Technical Cooperation (CFTC) had agreed to sponsor the coordination of the core functions of the Caribbean Ombudsman Secretariat.

The theme for the Conference was **“Integrity” – The Foundation of Good Governance**. The Ombudsman was asked to chair the session on the topic **“Recognizing Integrity Violations.”** The Investigations Officer who was the Honorary Secretary/ Treasurer at that time was expected to perform the functions as Joint Co-ordinator of the Conference.

It was expected that the participants at the Conference would include Voting, Associate and Honorary Members of the Caribbean Ombudsman Association (CAROA), former Ombudsmen, and Human Rights Investigations Institutions among others.

A number of papers were presented on topics, which included: Why it is important to promote an integrity code and how does the Ombudsman recognize violation of integrity; red flags to detect threatening vulnerabilities in a government agency, procedure for the investigation of integrity violation; and governance and integrity in the public sector.

The Ombudsman’s attendance at the Conference afforded him the opportunity to explore all aspects of integrity which is a foundation for good governance as well as to be exposed to evolving initiatives relating to how the Ombudsman can apply human rights principles to the workplace.

At that meeting the Ombudsman of Barbados was elected to serve as President of the Caribbean Ombudsman Association (CAROA) for a period of two (2) years, 2010 to 2012.

LISTED BELOW ARE FIVE (5) SAMPLE COMPLAINTS

1. A complaint was made to this office against the National Insurance Department. In his submission the complainant stated that he was employed as a general worker for eight (8) years at a St Thomas farm. He was fired from his job on January 2, 2008.

He visited the National Insurance Department seeking unemployment benefits and was informed that no contributions were paid by the company on his behalf.

The matter was referred to the National Insurance Department for investigation. A meeting was held with the Office of the Ombudsman and the National Insurance Department and it was revealed that the complainant received unemployment benefits for the stipulated period, which was June 1 to October 17, 2010.

2. An employee made a complaint to this office against the National Insurance Department. She stated that she was a housekeeper for twelve (12) years until she was medically boarded in 2002 after an accident in 2001.

She claimed she was paid injury benefit for one year until 2003 when she reached the age of sixty-five (65). She believed that she should be getting contributory pension but was of the opinion that she should have been receiving more for her injury and not just contributory pension.

After the matter was investigated, it was revealed that the National Insurance Department only pays one pension. The complainant on attaining the age of sixty-five has been receiving a weekly contributory pension. The matter was resolved.

3. An Officer who retired from the public service on medical grounds made a complaint to this office against the Personnel Administration Division.

He stated that he worked as a Police Officer with the Government of Montserrat from 1970 to 1980. On his return to Barbados, he joined the public service as an Immigration Officer on July 1, 1980.

However, he sustained an injury to his back on the job and was medically boarded. He requested that his years of service with the Government of Montserrat be taken into consideration when calculating his pensionable years of service.

The matter was referred to the Chief Personnel Officer for investigation. It was revealed that since the complainant had not transferred from one government to another, his benefits could not be processed as a mixed service computation. The government of Barbados paid benefits to the complainant in accordance with his service here.

The government of Montserrat had indicated that since the complainant did not complete ten (10) years' service or more (having only done 9 years 10 months) with the police force, he was not eligible for either a pension or gratuity.

The Department of Administration in Montserrat further indicated that pension is not an absolute right and that the complainant's matter was referred for legal advice on two occasions and he was informed of his non-entitlement by way of letters dated 1980-12-01 and 1998-11-23. It is to be noted that this complaint was speedily resolved.

4. A complainant approached this office indicating that she had worked for two companies both of whom made contributions on her behalf to the National Insurance Department. She opined that she was entitled to a refund if monies were paid over the personal bar.

She further stated that she applied for a refund in 2008 but was refused as the National Insurance Department claimed that they were not honouring the request since it was made outside of the time limit.

The complainant stated that the claim was made within the stipulated time as she personally, hand delivered the letter to the front desk of the National Insurance Department. The National Insurance Department on the other hand claimed that they did not receive it.

This office invited the relevant authority to investigate the matter and it was revealed that the complainant did receive a refund of the excess contributions.

5 A complaint was lodged with this office against the Transport Board. The complainant stated that she was injured on July 2, 2008 while cleaning the bus before starting work. She claimed that the steps were wet and she slipped and fell.

As a result of the fall she had an MRI done which showed that one of the disc in her lower back was torn. She stated that she was not being compensated for her injuries because it was the policy of the Transport Board to allow injured employees to work in the office for a period of six months.

After thoroughly investigating the circumstances surrounding the incident, it was found that no negligence was attributed to the Transport Board and as such, the Transport Board was in no position to entertain the complainant's claim for damages. It should also be noted that the complainant was performing a duty outside of her job description when she was injured.

APPENDIX 1

Appendix

CHAPTER 8A

OMBUDSMAN

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. The Ombudsman.
3. Appointment and removal.
- 3A. Salary.
4. Administrative provisions.
5. Powers of investigation.
6. Conditions of investigation.
7. Legal remedies.
8. Complaints.
9. Procedure of investigation.
10. Power to obtain information.
11. Secrecy of information.
12. Obstruction and contempt.
13. Reports.
14. Communications privileged.
15. Regulations.
16. Expenses.

FIRST SCHEDULE

SECOND SCHEDULE

CHAPTER 8A

OMBUDSMAN

An Act to provide for the establishment of the office of Ombudsman.

1980-68.
1988-5.

[5th January, 1981]

Commence-
ment.
S.I. 1980/
191.

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

Short title.

2. (1) There shall be an Ombudsman for Barbados who shall, in accordance with this Act, investigate and report upon allegations of improper, unreasonable or inadequate administrative conduct.

The Ombuds-
man.

(2) The Ombudsman shall perform his functions in accordance with his own independent judgment but shall be responsible to Parliament for the general discharge of his duties.

(3) The Ombudsman shall not enter upon the duties of his office until he has taken and subscribed the oath of office in the form set out in the First Schedule.

First
Schedule.

(4) The Ombudsman shall not be a member of the Senate or of the House of Assembly and shall not hold any other office of emolument or engage in any other occupation for reward.

3. (1) Subject to subsection (2), the Ombudsman shall be appointed by the Governor-General, by instrument under the Public Seal, on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

Appoint-
ment and
removal.

(2) The Governor-General shall before appointing a person to be the Ombudsman, submit the proposed appointment to each House of Parliament for approval.

(3) The Ombudsman may be removed from office in accordance with the provisions of section 105 of the *Constitution* which shall apply to his office as if enacted by this Act and the prescribed authority for that purpose shall be the Prime Minister acting after consultation with the Leader of the Opposition.

(4) The Ombudsman shall vacate office on attaining the age of 65 years but may be re-appointed by the Governor-General in the same manner as under subsection (1) for one further period not exceeding 5 years.

(5) The Ombudsman may resign office at any time by written notice to the Governor-General.

Appendix - Cont'd

Salary,
1988-5.

3A. (1) There shall be paid to the Ombudsman a salary at such annual rate as the Governor-General specifies by order.

(2) An order made under this section shall be subject to negative resolution.

(3) An order made under this section may contain such supplementary provisions as the Governor-General may consider necessary or expedient for the purposes of the order.

Administra-
tive pro-
visions.

4. (1) Any function of the Ombudsman under this Act may be performed by any officer of the Ombudsman authorised by him for that purpose.

(2) The officers of the Ombudsman shall be public officers appointed in accordance with section 94 of the *Constitution*.

(3) The Ombudsman may charge such fees in connection with his functions in such amounts and subject to such conditions as the Governor-General may prescribe.

(4) All fees received by the Ombudsman pursuant to subsection (3) shall be paid to the Accountant General.

Powers
of investi-
gation.

5. (1) The purpose of an investigation by the Ombudsman shall be to ascertain whether injustice has been caused by improper, unreasonable or inadequate administrative conduct on the part of a government ministry, department or other authority subject to this Act.

1988-5.

(2) The Ombudsman may investigate any course of conduct or anything done or omitted by any person in the exercise of administrative functions respecting any business of the Government, including the administration of any statutory board or department of the Government responsibility for which has been assigned to the Prime Minister or any other Minister pursuant to section 72 of the *Constitution*, not being functions concerned with a matter specified in the Second Schedule.

Second
Schedule.

(3) The Governor-General may, by order, amend the Second Schedule; but any such order shall be subject to affirmative resolution.

(4) An investigation by the Ombudsman shall not be prevented by any provision in any enactment, other than the *Constitution*, to the effect (howsoever expressed) that any matter or thing shall be final or conclusive or shall not be disputed, reviewed or called in question.

(5) If any question arises whether the Ombudsman is empowered to make an investigation or to exercise any power under this Act he may, if he thinks fit, apply to the High Court which may determine the question by declaratory order.

Appendix – Cont'd

6. (1) The Ombudsman shall not make an investigation without first receiving a written complaint in accordance with this Act, unless he is of opinion or either House of Parliament resolves that there are reasons of special importance which make investigation by the Ombudsman desirable in the public interest.

Conditions
of investi-
gation.

(2) In deciding whether to make, continue or discontinue an investigation authorised by this Act the Ombudsman shall in all cases act in accordance with his own discretion which shall not be questioned; and in particular he may refuse to investigate any matter on the ground that it is trivial or that the complaint is frivolous or vexatious or not made in good faith, or that the complainant has not a sufficient interest therein.

7. (1) Subject to subsection (2), the Ombudsman shall not investigate any case where, in his opinion, the complainant would at any time have had a remedy or right of appeal in a court of law, tribunal or similar body established by the *Constitution* or by or under any enactment or by or on behalf of Her Majesty.

Legal
remedies.

(2) Notwithstanding subsection (1), the Ombudsman may investigate such a case if he is satisfied that for special reasons the complainant could not fairly be expected to have had recourse to such remedy or right of appeal.

8. (1) A complaint under this Act may be made by any person or body of persons, whether incorporated or not, other than a government department, public authority or body constituted for purposes of the public service or for managing any industry or undertaking in public ownership.

Complaints.

(2) A complaint may be made by the person aggrieved or his duly authorised agent; and where the aggrieved person has died, the complaint may be made on his behalf by his personal representative or by such other suitable person as the Ombudsman determines.

(3) A complainant shall be a citizen or a resident of Barbados (or shall have been such at the time of his death) or shall have been in Barbados or on a ship or aircraft or installation registered in or belonging to Barbados at the time of the act or omission of which he complains.

(4) A complainant who is no longer in Barbados shall, if the Ombudsman so directs, be permitted to re-enter and remain in Barbados, subject to such conditions as the Minister responsible for immigration may direct, for the purposes of the investigation.

(5) A complaint may not be made later than 12 months from the day on which the complainant first knew of the facts giving rise to his complaint; but the Ombudsman may extend this time if in his opinion there are special circumstances which justify such extension.

Appendix – Cont'd

(6) The Ombudsman shall determine any question whether a complaint is duly made to him.

Procedure of investi- gation.

9. (1) The procedure of an investigation by the Ombudsman shall, subject to this Act, be such as he shall determine.

(2) An investigation by the Ombudsman shall be held in private and he may make such inquiries from such persons and in such manner as he may think fit.

(3) The Ombudsman may determine whether any person may be represented by an attorney-at-law or otherwise in an investigation.

(4) The Ombudsman shall, before making an investigation give to the principal officer of the department or authority concerned, and to any other person against whom the complaint is made, an opportunity to comment upon the complaint.

(5) No person shall be entitled, as of right, to be consulted or heard by the Ombudsman, except in the manner provided by this Act.

(6) The Ombudsman may, in the manner prescribed, reimburse the complainant and any other person who assists in an investigation for expenses incurred and time lost.

Power to obtain in- formation.

10. (1) Subject to subsection (3), the Ombudsman may, for the purpose of an investigation, require any Minister, officer or member of the department or authority concerned or any other person (including the complainant) to supply any information, produce any document or thing, attend for examination, or allow access by the Ombudsman to any premises of the department or authority.

(2) The Ombudsman shall, for such purposes, have the same powers as the High Court (including the power to administer oaths and affirmations) but subject to the same rules relating to immunity and privilege from disclosure as apply in the High Court and subject also to the following provisions of this section.

(3) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document or thing or the allowing of access to any premises

(a) might prejudice the security, defence or international relations of Barbados or the investigation or detection of offences;

Appendix – Cont'd

- (b) might involve the disclosure of deliberations of the Cabinet; or**
- (c) might involve the disclosure or proceedings of the Cabinet or of any committee of the Cabinet relating to matters of a secret or confidential nature and would be injurious to the public interest,**

the Ombudsman shall not require the information or answer to be given or the document or thing to be produced or access to the premises to be allowed.

(4) Subject to subsection (3), no information, answer, document or thing shall be withheld from the Ombudsman on the ground that its disclosure would be contrary to the public interest.

11. (1) Information obtained by or on behalf of the Ombudsman in the course of an investigation shall not be disclosed in legal proceedings or otherwise except Secrecy of information.

- (a) for the purposes of the investigation and any report thereon under this Act;**
- (b) for the purposes of proceedings (or possible proceedings) for an offence of perjury connected with an investigation under this Act; or**
- (c) for the purposes of proceedings under section 12.**

(2) The Attorney General may give written notice to the Ombudsman that disclosure by the Ombudsman of any specified information or document, or of any class of information or document, would, in his opinion, be prejudicial to the safety of Barbados or otherwise contrary to the public interest; and in that case the Ombudsman and his officers shall not communicate such information or document to any person or in any manner.

12. (1) If any person without lawful excuse obstructs the Ombudsman or any officer of his in the performance of his functions under this Act or fails to act as lawfully required by the Ombudsman, the Ombudsman may certify the offence to the High Court. Obstruction and contempt.

(2) Where an offence is so certified the High Court may, after hearing any person properly desiring to be heard, punish the offender in the same manner as for contempt of court.

Appendix - Cont'd

Reports.

13.(1) The Ombudsman shall make a report to each complainant explaining the result of his investigation, or his reasons for not investigating or partially investigating the complaint.

(2) Where the Ombudsman makes an investigation on his own initiative or pursuant to a resolution of either House of Parliament he shall make a report thereupon to that House of Parliament.

(3) In the case of a completed investigation the report of the Ombudsman shall state whether he finds that injustice has been sustained by reason of improper, unreasonable or inadequate conduct on the part of any person, government ministry or department or other authority subject to investigation under this Act and, in any case where he so finds, what action, if any, he recommends by way of remedy or compensation for the injustice.

(4) The Ombudsman shall, before making any report, afford an opportunity to be heard to any person, government ministry or department or other authority upon whose conduct he proposes to make adverse comment.

(5) A copy of each report made by the Ombudsman on a particular case shall be sent by him to the principal officer of the relevant government ministry or department or authority and also, if the Ombudsman thinks fit, to any other person whose conduct is the subject of the complaint or of comment in the report.

(6) The Ombudsman shall, in each calendar year, prepare for laying before each House of Parliament a general report on his functions under this Act.

(7) The Ombudsman may, from time to time, prepare for laying before each House of Parliament such other reports as he may think fit, including

- (a) a report on the inequitable or unreasonable nature or operation of any enactment or rule of law, and
- (b) a report on any case where in his opinion injustice has been sustained as aforesaid and the injustice has not been or will not be remedied or compensated.

(8) In making any report the Ombudsman may name or refrain from naming any person as he may think fit.

Appendix – Cont'd

(9) The Ombudsman shall submit his reports made under subsections (6) and (7) to the Speaker of the House of Assembly and to the President of the Senate (or, if the office of Speaker or President is vacant or the Speaker or President, as the case may be, is for any reason unable to perform the functions of his office, to the Deputy Speaker or Deputy President) who shall cause them to be laid before the House of Assembly and the Senate respectively.

14. For the purposes of the law of defamation

Com-
munications
privileged.

- (a) any communication made by or to the Ombudsman for the purposes of a complaint or investigation shall be privileged in the same manner as if it were made in the course of proceedings in the High Court;
- (b) any report of the Ombudsman under this Act shall be deemed to be authorised to be published by both Houses of Parliament;
- (c) any communication between the Ombudsman and a member of either House of Parliament for the purposes of the Ombudsman's functions shall be deemed to be a proceeding in Parliament.

15. (1) The Governor-General may make regulations generally for the administration of this Act and, in particular, for prescribing any thing required to be prescribed under this Act.

Regula-
tions.

(2) Regulations made under this Act shall be subject to affirmative resolution.

16. All expenses incurred by the Ombudsman in connection with his functions under this Act or the regulations shall be defrayed out of moneys voted for the purpose by Parliament.

Expenses.

FIRST SCHEDULE

Section 2(3)

OATH FOR THE DUE EXECUTION OF THE OFFICE OF OMBUDSMAN

I, _____, appointed Ombudsman of Barbados in accordance with the Ombudsman Act, Cap. 8A, do swear that I will faithfully and impartially perform the duties of my office.

Appendix – Concl'd

1988-5.

SECOND SCHEDULE

Section 5(2)

MATTERS NOT SUBJECT TO INVESTIGATION

1. Action taken in matters certified by the Minister responsible for Foreign Affairs or other Minister of the Crown to affect relations or dealings between the Government of Barbados and any other Government or any international organisation of States or Governments.
2. Action taken, in any country or territory outside Barbados, by or on behalf of any officer representing or acting under the authority of Her Majesty in respect of Barbados or any other public officer of the Government of Barbados.
- Cap. 189. 3. Action taken by the Attorney General under the *Extradition Act*.
4. Action taken by or with the authority of the Attorney General or any other Minister of the Crown, the Director of Public Prosecutions or Commissioner of Police for the purposes of investigating crime or protecting the security of Barbados, including action taken with respect to passports.
- Cap. 159. 5. The commencement or conduct of civil or criminal proceeding before any court of law in Barbados, or proceedings under the *Defence Act*.
6. Action taken in connection with the exercise or possible exercise of the prerogative of mercy under the *Constitution* or otherwise.
- 1988-5. 7. Action taken in matters relating to contractual or other commercial transactions, being transactions of a department of government or a statutory board not being transactions relating to
 - (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;
 - (b) the disposal of surplus land acquired compulsorily or in circumstances in which it could be acquired compulsorily.
8. Any action or advice of a qualified medical practitioner or consultant involving the exercise of professional or clinical judgment.
9. Any matter relating to any person who is or was a member of the armed or police forces of Barbados in so far as the matter relates to
 - (a) the terms and conditions of service of 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 the *Constitution* may not be enquired into by any court.
11. The grant of honours or awards.
- 1988-5. 12. Matters relating to the grant of liquor licences.
13. Matters relating to the regulation of public utilities.
- Cap. 190. 14. Any function of the Minister under the *Immigration Act* or the regulations made thereunder.
15. Any judicial function not specifically excluded by paragraphs 1 to 14.

