

ANNUAL REPORT

The Ombudsman of Barbados 2007



TABLE OF CONTENTS

<i>Letter of Transmittal</i>	3
<i>Logo of the Ombudsman of Barbados</i>	4
<i>Map of Bridgetown</i>	6
<i>The Message from the Ombudsman</i>	7
<i>Historical Background</i>	9
<i>Functions of the Ombudsman</i>	9
<i>Analysis of Complaints Received in the Year 2007</i>	10
<i>Complaints against Barbados Water Authority</i>	13
<i>Complaints against Ministry of Housing, Lands and Rural Development</i>	14
<i>Complaints against the Royal Barbados Police Force</i>	15
<i>Complaints against National Insurance Department</i>	16
<i>Complaints against the Ministry of Health</i>	17
<i>Complaints against Her Majesty's Prisons – Dodds</i>	17
<i>Complaints against the Personnel Administration Division</i>	18
<i>Complaints against the Custom & Exercise Department</i>	20
<i>Complaints against Town & Country Development Planning Office</i>	21
<i>Complaints against Inland Revenue Department</i>	22
<i>Sample Complaints</i>	
<i>Appendices</i>	

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, 2007 to December 31, 2007 to facilitate its 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,

Valton Bend.....

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

In 1980 the Office of the Ombudsman was established in Barbados. In 1981 the Ombudsman Act was proclaimed. In 1987 the first Ombudsman was appointed. Ever since its inception, the Office has been working assiduously to protect the rights of the average citizen. Advice, guidance and assistance have been provided over the years. The proceedings are informal. The process avoids the need for litigation and its attendant costs. It is a fill-up to the legal system. It works to ensure speedy resolution to matters, thereby avoiding lengthy trials.

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 employed. 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 2007

During the calendar year 2007 one hundred and forty-one (141) 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.

Fig. 1

The agencies which complaints were made to this Office in 2007:

<u>Departments</u>	<u>Complaints</u>
Accountant General	1
Attorney General's Chambers	2
Barbados Bar Association	1
Barbados Fire Service	1
Barbados Port Authority	1
Barbados Transport Board	4
Barbados Vocational Training Board	1
Barbados Water Authority	6
Caribbean Broadcasting Corporation	1
Child Care Board	1
Court System	1
Customs & Excise Department	2
Data Processing Department	1
Her Majesty's Prisons	3
Immigration Department	4
Inland Revenue Department	4
Land Registry Department	3
Marshals	2
Ministry of Education, Youth Affairs & Sports	2
Ministry of Finance	2
Ministry of Health	18
Ministry of Housing, Lands & the Environment	2
Ministry of Public Works & Transport	9
National Assistance Board	1
National Conservation Commission	2
National Housing Corporation	6
National Insurance Department	17

Departments	Complaints
National Sports Council	1
Outside Jurisdiction	4
Personnel Administration Division	9
Police Department	6
Prime Minister Office	2
Public Trustee	3
Registration Department	2
Rural Development Commission	3
Sanitation Service Authority	2
Town and Country Development Planning Office	7
Urban Development Commission	1
Vat Office	1
Welfare Department	<u>2</u>
Total	<u>141</u>

ANALYSIS OF COMPLAINTS

One hundred and forty-one (141) complaints were made to this Office during the year 2007.

A more detailed analysis will now be made of those ten (10) public service agencies against which the greatest number of complaints were made to this Office. This is being done to determine whether or not there are any conclusions to be made from an analysis of this data.

Year	2000	2001	2002	2003	2004	2005	2006	2007
Complaints Brought forward	143	162	212	183	132	186	153	101
Complaints received	219	213	184	115	226	255	189	141
Withdrawn	6	0	0	1	0	3	5	2
Outside Jurisdiction	24	2	1	3	6	4	6	3
Resolved	170	161	212	162	166	281	230	209
Outstanding	162	212	183	132	186	153	101	28

BARBADOS WATER AUTHORITY

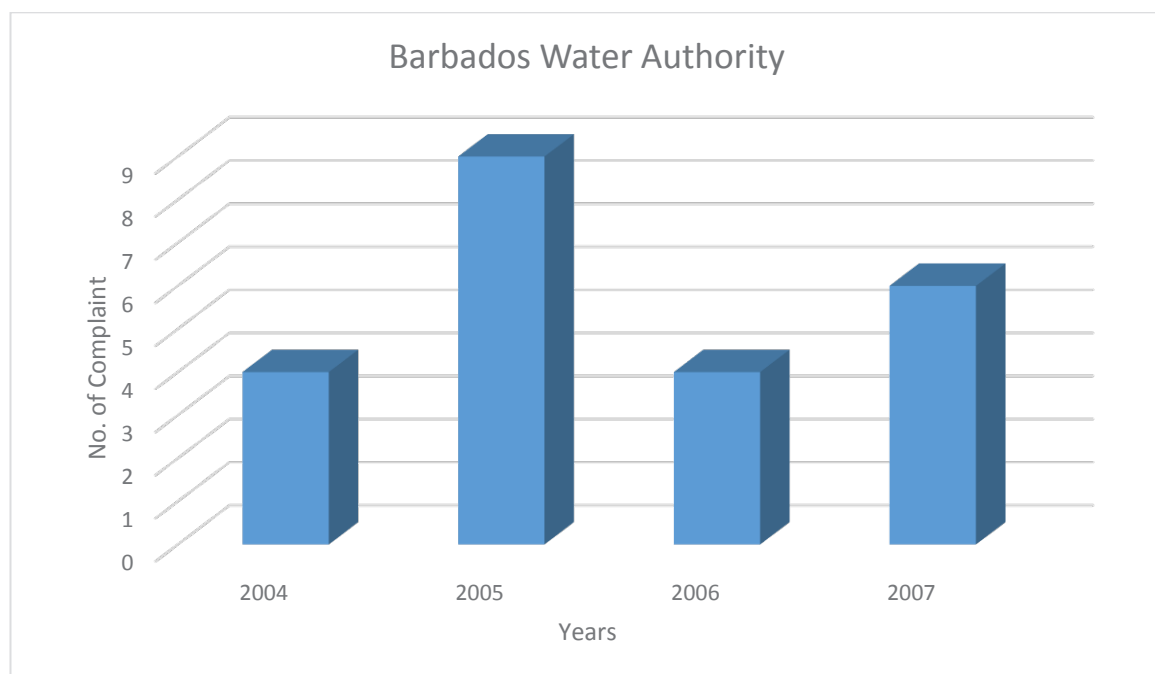
During the calendar year 2007, six (06) members of the public made complaints to this Office against the management of the Barbados Water Authority. This represents an increase in the number of complaints for the year 2006.

Fig.1. shows the actual number of complaints which were received by the Ombudsman against the management of the Barbados Water Authority over the years 2004 – 2007.

This data may be viewed graphically in the chart below:

Fig. 1

Year	2004	2005	2006	2007
No. of complaints	4	9	4	6



MINISTRY OF HOUSING, LANDS AND RURAL DEVELOPMENT

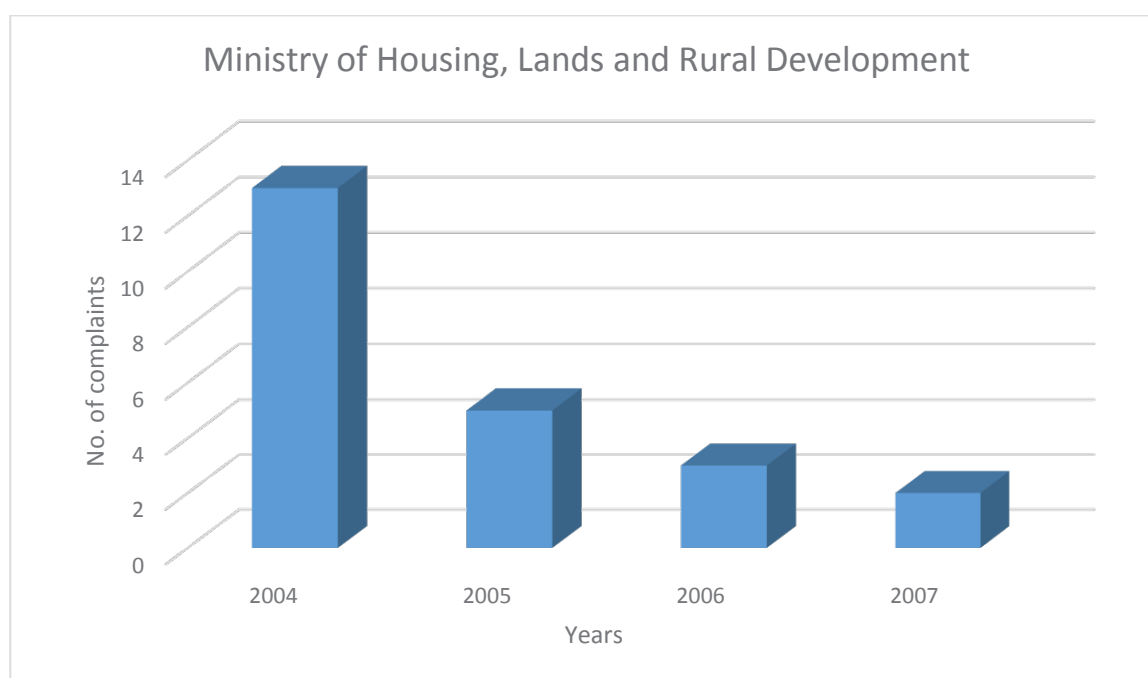
During the calendar year 2007 two (02) complaints were made to this Office against the management of the Ministry of Housing, Lands and Rural Development. This was one complaint less than the three (3) which had been made against the agency in 2006.

Fig.2 below graphically shows the complaints which have been made against this agency for the years 2004 to 2007.

This information is also demonstrated in the chart below.:

Fig. 2

Year	2004	2005	2006	2007
No. of complaints	13	5	3	2



ROYAL BARBADOS POLICE FORCE

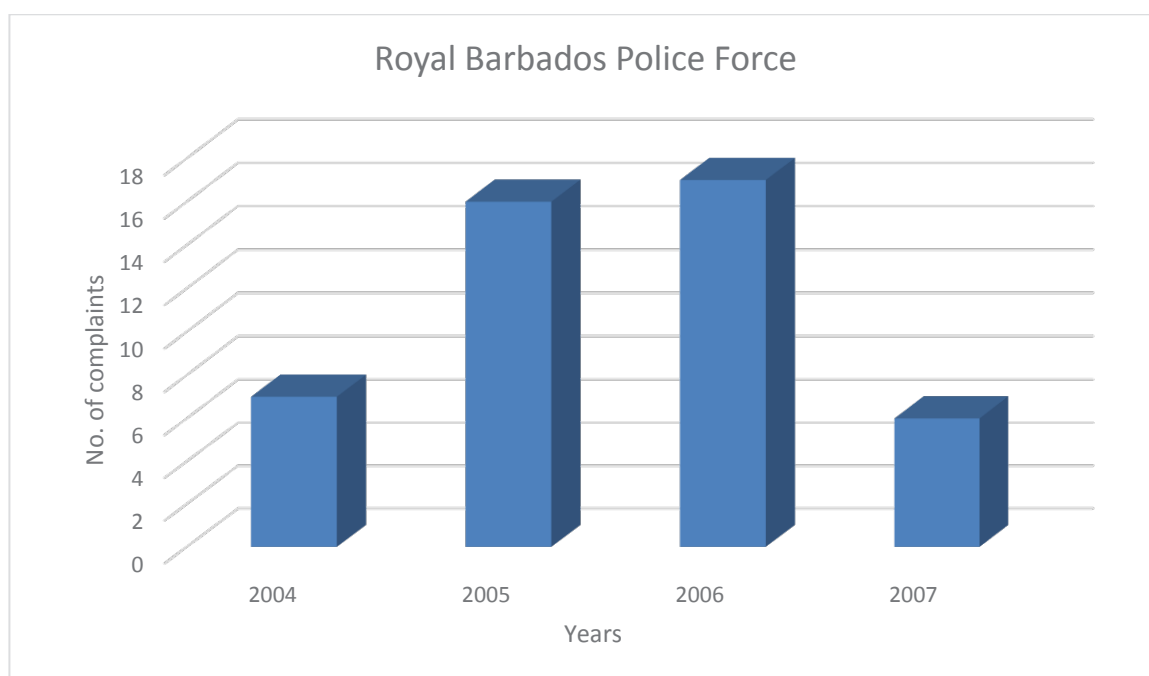
Six (06) complaints were made to this Office during the calendar year 2007 against the Royal Barbados Police Force. This was eleven (11) complaints less than the seventeen (17) which had been made against the agency in the year 2006.

Fig. 3 below graphically shows the complaints which have been made against this agency for the years 2004 to 2007.

This may be seen graphically in the chart below:

Fig.3

Year	2004	2005	2006	2007
No. of complaints	3	16	17	6



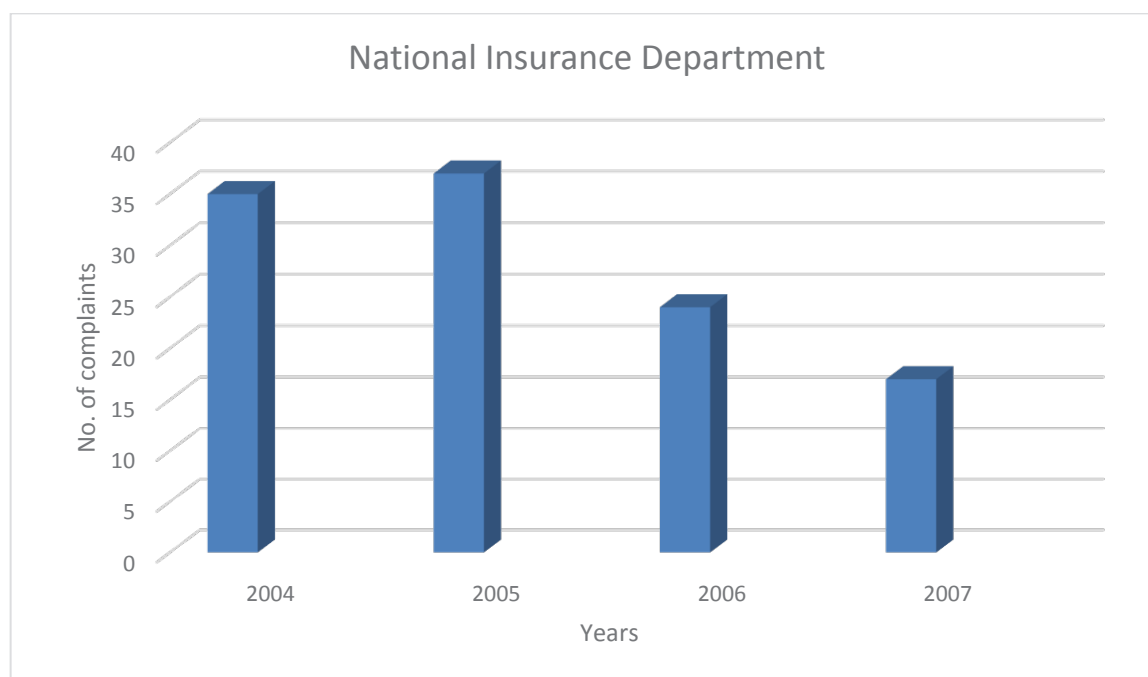
NATIONAL INSURANCE DEPARTMENT

A total of seventeen (17) complaints were made to this Office against the management of the National Insurance Department. This number was somewhat less than the twenty-four (24) which had been made in the calendar year 2006.

Fig.4 - below shows a breakdown of the numbers of complaints received against the management of the National Insurance Department for the years 2004 - 2007.

This is shown graphically below:

Year	2004	2005	2006	2007
No. of complaints	35	37	24	17



MINISTRY OF HEALTH

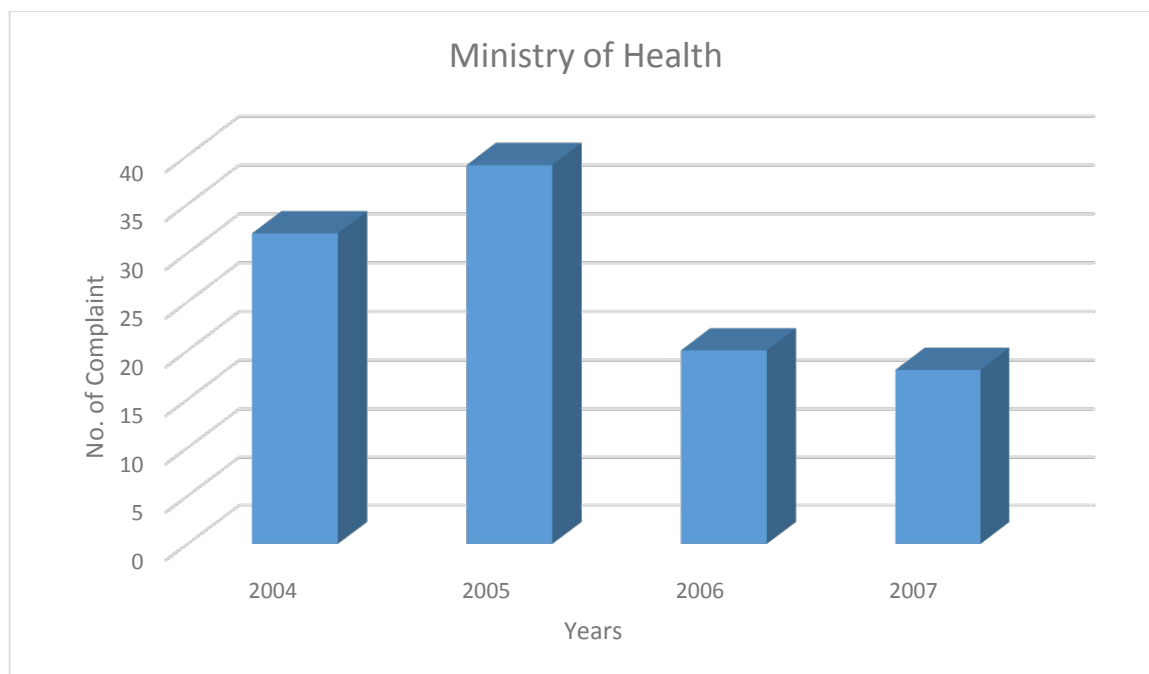
During the year 2007 eighteen (18) complaints were made to this Office against the Ministry of Health. This was two (02) complaints less than the twenty (20) which had been made against the agency in the year 2006. The complaints were made mainly against the Geriatric Hospital.

The figure below graphically shows the complaints which had been made against this agency for the past four (4) years .

This information is also demonstrated in the chart below:

Fig. 5

Year	2004	2005	2006	2007
No. of complaints	32	39	20	18



H.M. PRISONS DODDS

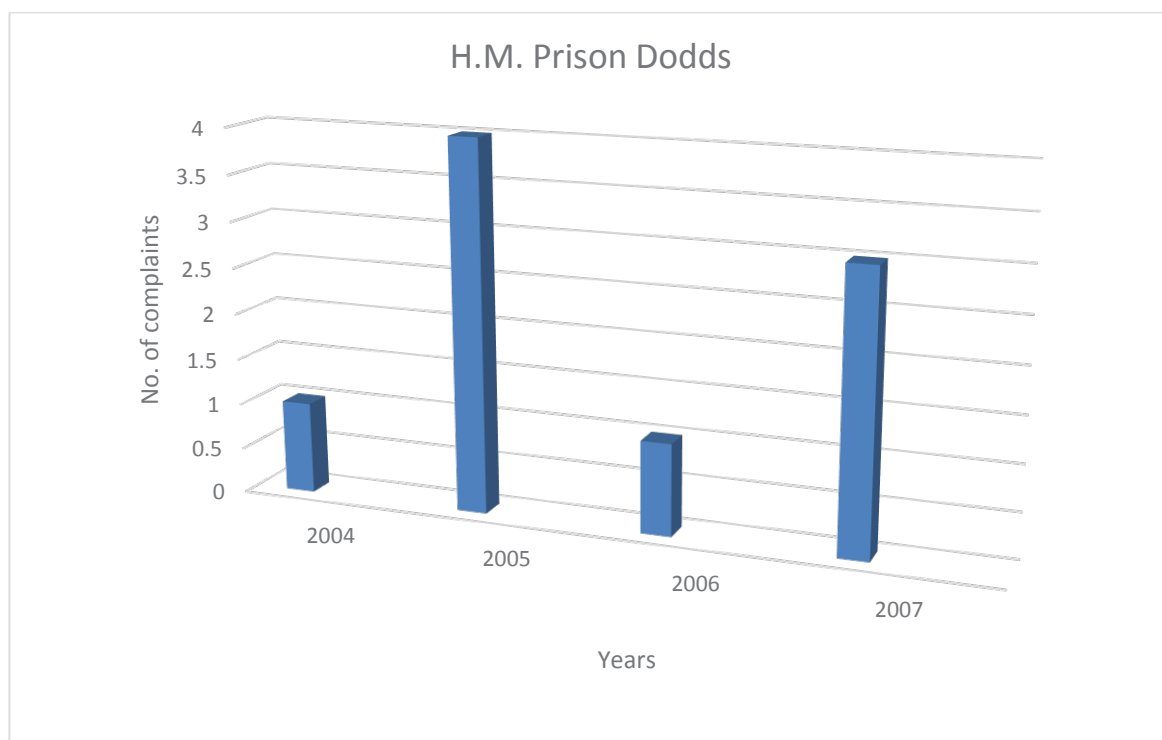
During the year 2007 three (03) complaints were made to this Office against Her Majesty's Prisons, Dodds. This was two complaints more than the one (01) which had been made against the agency in the year 2006.

Fig. 6. below graphically shows the complaints which had been made against this agency for the years 2006 to 2007.

This may be seen below graphically in the chart below:

Fig. 6

Year	2004	2005	2006	2007
No. of complaints	1	4	1	3



PERSONNEL ADMINISTRATION DIVISION

During the period of this report nine (09) complaints were received by this office against The Personnel Administration Division. This was one complaint more than the eight (08) which had been made against the agency in the year 2006.

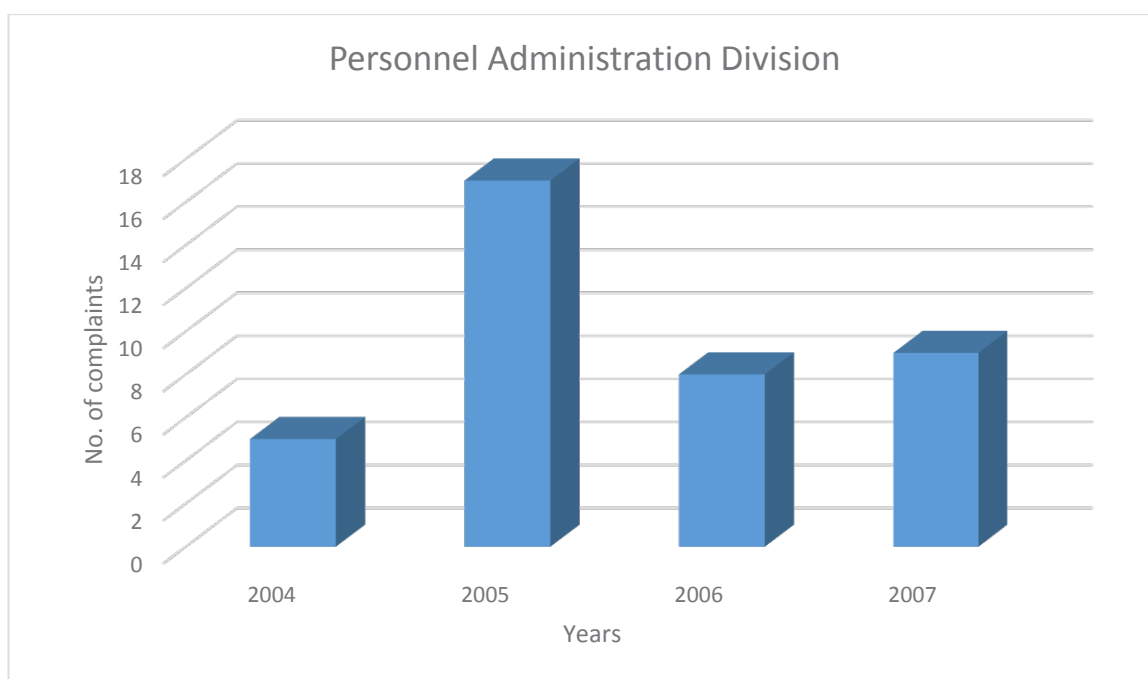
It should be noted that that agency is responsible for the management of appointments, promotions and transfers of public service personnel. In addition, it manages procedures for discipline of leave, as well as the superannuation benefits for all public service employees.

Fig. 7 shows the complaints which had been made against this agency for the years 2004 to 2006.

Fig. 7

Year	2004	2005	2006	2007
No. of complaints	5	17	8	9

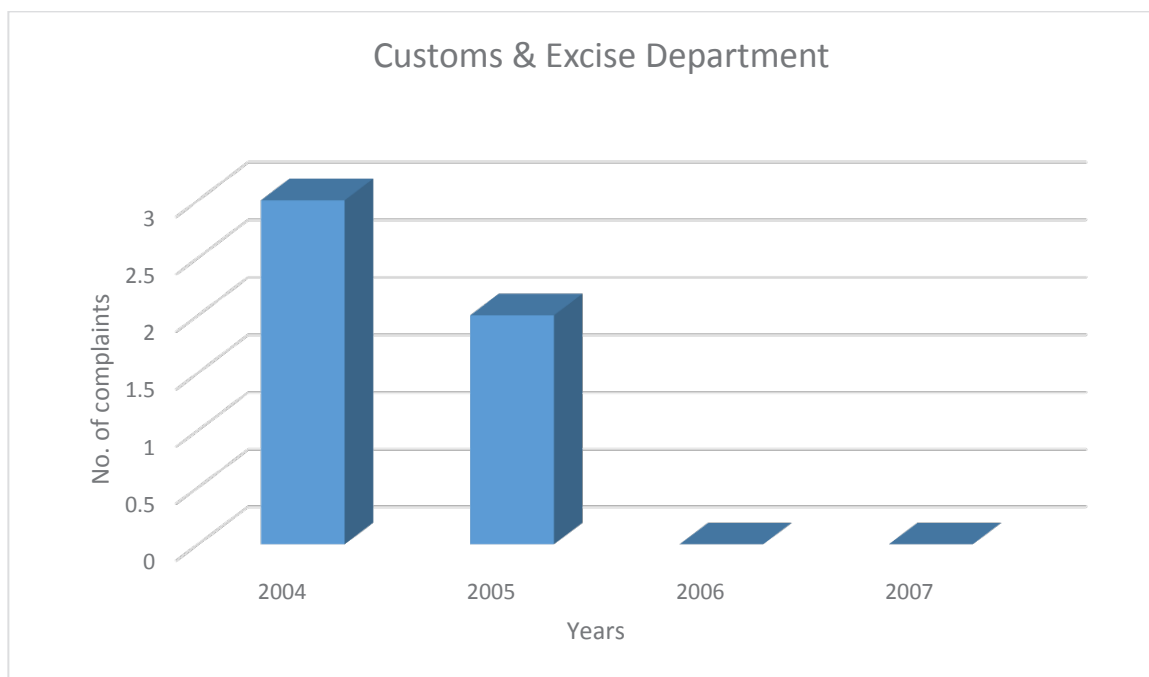
This information is set out in the chart below:



CUSTOMS & EXCISE DEPARTMENT

There were no complaints against this agency during the calendar years 2006 and 2007.

Year	2004	2005	2006	2007
No. of complaints	3	2	0	0



TOWN & COUNTRY DEVELOPMENT PLANNING OFFICE

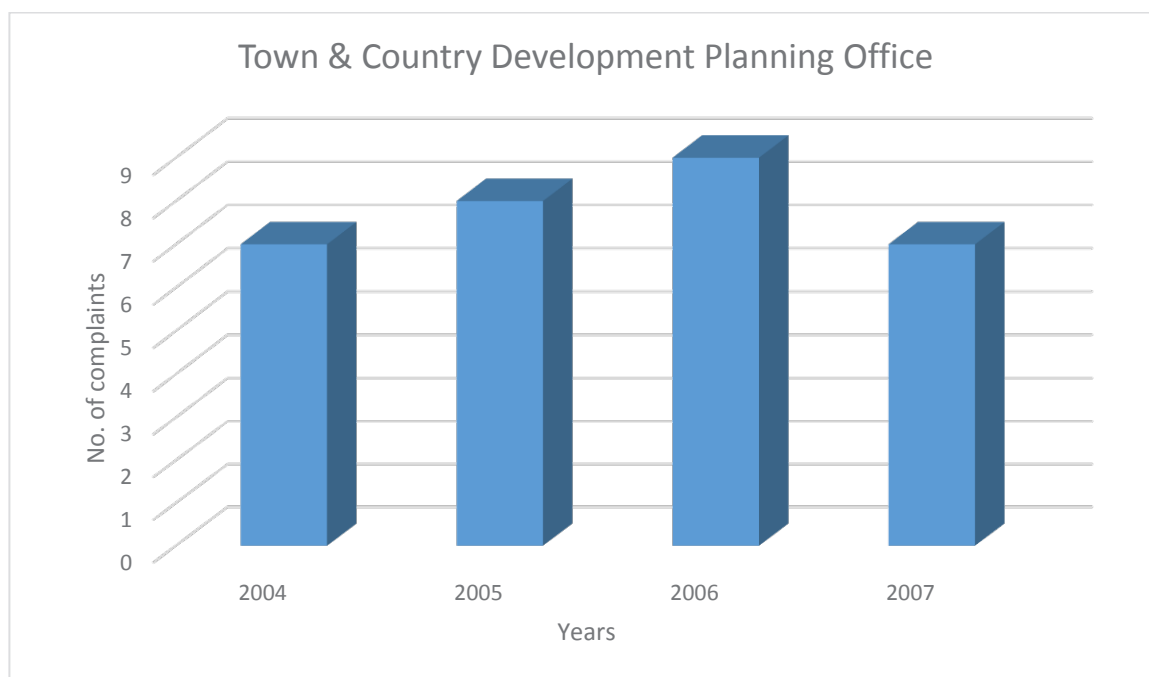
A total of seven (7) complaints were made to the Office of the Ombudsman against The Town and Country Development Planning Office during the calendar year 2007.

This was two complaints less than the nine (09) which had been made against the agency in the year 2006.

Fig. 8. below graphically shows the complaints which had been made against this agency for the years 2004 to 2007.

Fig. 8

Year	2004	2005	2006	2007
No. of complaints	7	8	9	7



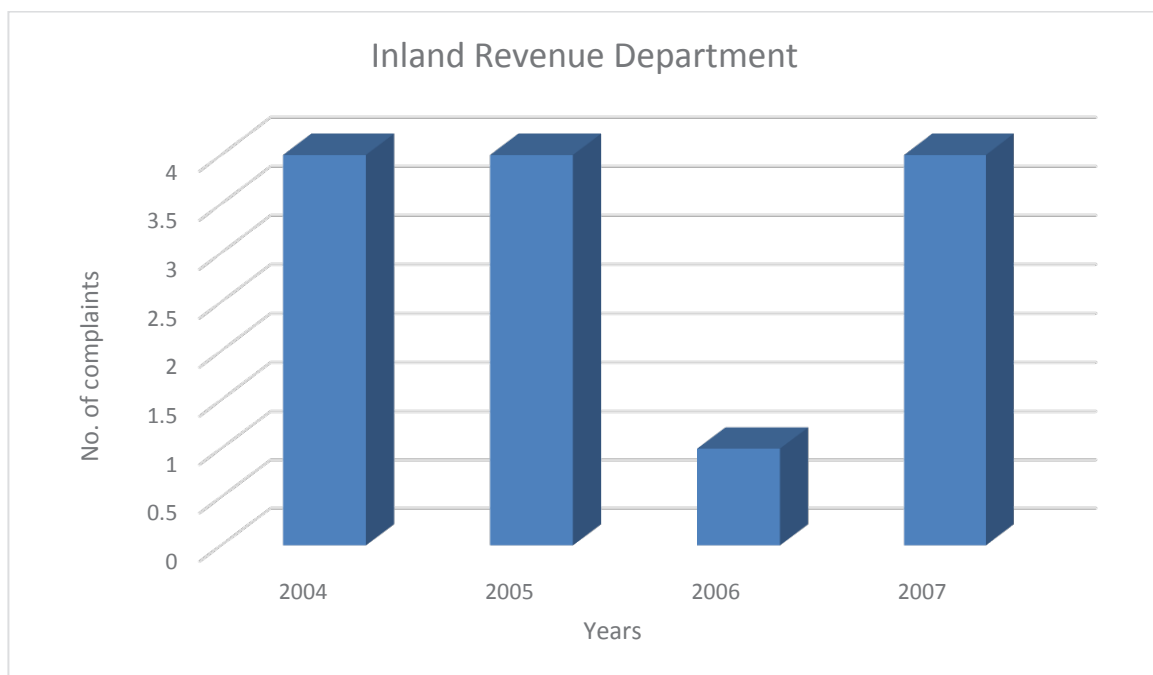
INLAND REVENUE DEPARTMENT

During the calendar year 2007 four (04) complaints were made to this Office against The Inland Revenue Department This was three complaints more than the one (01) which had been made against the agency in the year 2006..

Fig. 9 below graphically shows the complaints which had been made against this agency for the years 2004 to 2006.

Fig. 9

Year	2004	2005	2006	2007
No. of complaints	4	4	1	4



LISTED BELOW ARE FIVE (5) SAMPLE COMPLAINTS

1. A complainant lodged a complaint to this office against the management of the Barbados Water Authority. Her complaint was that she lived at one location while owning another lot at another location. A squatter from the neighbourhood was occupying part of the lot at the other location and had made an illegal connection to her water service to facilitate his daily domestic activities.

She is mindful of Section 30 of the Barbados Water Authority Act and it is on this basis that she urgently requested that the connection which is on her property, which serves a squatter in the neighborhood, be removed from her property.

This office informed the BWA of the complaint who promised to urgently investigate the matter with a view to resolving it.

The BWA informed this Office that the complaint made by the complainant was indeed investigated and the illegal service had been removed from the property of the complainant, and apologized for the inconvenience caused.

2. A Public Officer made a complaint against the Personnel Administration Division relating to her confirmation of appointment. She stated that she was appointed on six (6) months probation. It should be noted that her permanent appointment could not have been confirmed until she had completed the six (6) months probationary period.

However, because she was never confirmed in her appointment, she is being asked to pay National Insurance at a higher rate as opposed to if she had been confirmed in her appointment.

The matter was referred to the Chief Personnel Officer and was quickly resolved.

3. A complaint was made to the Office of the Ombudsman by a Public Officer against the management of the Personnel Administration Division. Her complaint was that she was employed in the teaching service from 1971 to 1978 and subsequently returned to her homeland. She returned to the island in 1992, she believes that she was entitled to certain benefits.

The complaint was referred to the Chief Personnel Officer, who informed that the matter was directed to the Permanent Secretary, Ministry of Education with a view of investigating the claim for retiring benefits.

It should be noted that further research indicated that the complainant had already received the benefits and the matter resolved.

4. A complaint has been made to this office against the management of the National Insurance Department. She states that she has been employed for some time and deductions are taken from her wages every month but are not being paid to the NIS Department on her behalf.

She is very concerned as she is currently pregnant and is hopeful that later this year when she is forced to apply for maternity benefits from the Scheme she would be disadvantaged since she has for sometime been informing officers of the tardiness in the submission of funds from her employer.

After the complaint was received by this office, the agency was contacted. This office was informed that the NIS office has collected and recorded the missing earnings from January 2006 until June 2007.

Further, the Inspector for the area is in the process of collecting earnings for the missing periods prior to this. It is hoped that your complaint is now resolved to your satisfaction.

On this basis this Office wrote both the Personnel Administration Division as well as the Ministry concerned for their comments on these complaints. It is to be noted that both these complaints were speedily resolved.

5. A complainant stated that she worked as a trainee-nursing assistant assigned to the Geriatric hospital. She further stated that she had not been paid for one (1) week in August as well as for the months of September to December 2006. This led to her becoming frustrated and she resigned from her job, which she really liked and was proud to perform.

She stated that while she resigned her job in desperation, she would like to be rehired on condition that she be paid when she works. However, she would like to be paid for the periods that she worked before she resigned.

The relevant departments were contacted and investigation revealed that the complainant was employed periodically as a Trainee Nursing Assistant. However, effective 2007-01-03 she was assigned until further notice to a vacant post of Health Aide for which she had been receiving regular monthly payments up to the time of her resignation.

The period in question of unpaid salary resulted from an ongoing problem with an officer who continued to be absent without appropriate certification or notification. Oral permission was sought to employ a substitute (which was the complainant) pending the resolution of this matter and this was followed by the relevant recommendation which was forwarded to the Ministry of Health.

The authority for this period was received on 2007-04-23, and the complainant would be paid shortly.

This office was not totally convinced that justice was served and a meeting was held with the management of the Geriatric Hospital/officials from the Ministry. The case was discussed and it was revealed that the management of the Hospital tried to dissuade the complainant from resigning even though her attendance was neither regular nor punctual, but the complainant was adamant she had made the correct decision to part company with the Geriatric Hospital.

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

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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.

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.

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.

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Complaints.

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.

(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.

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

Procedure of investigation.

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.

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.

Power to
obtain in-
formation.

(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;

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- (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.

Secrecy of
information.

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

- (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.

Obstruction
and
contempt.

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.

(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.

13.(1) The Ombudsman shall make a report to each ^{Reports.} 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

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- (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.
- (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.

Com-
munications
privileged.

14. For the purposes of the law of defamation

- (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.

Regula-
tions.

- 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.
- (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.

SECOND SCHEDULE

1988-5.

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.

3. Action taken by the Attorney General under the *Extradition Act*. Cap. 189.

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.

5. The commencement or conduct of civil or criminal proceeding before any court of law in Barbados, or proceedings under the *Defence Act*. Cap. 159.

6. Action taken in connection with the exercise or possible exercise of the prerogative of mercy under the *Constitution* or otherwise.

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- 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.

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