

### OMBUDSMAN'S FOREWORD

**1.1** The Office of the Ombudsman<sup>1</sup> came into being in **April 1999**. My appointment as Gibraltar's first Ombudsman represented for me an honour, a challenge and a valuable opportunity to help create, in some measure, a more accountable Public Service, and thus help strengthen our democratic way of life. It can be said that from the outset, the Office has been held with a significant degree of respect and credibility. There is no doubt that having my appointment ratified by a unanimous decision of the House of Assembly brought this about. The appointment and its ratification were free from any controversial political debate and this, I believe, helped tremendously in its acceptance by the general public. Although the workload has been very high the Office has managed to fulfil its obligations and honour its commitments respecting in many cases, time-scales as stated in the Ombudsman Charter.

**1.2** In the months following my appointment a great deal of work and effort was expended in obtaining suitable premises for the Office and having them refurbished, preparing essential documentation including the production of the 'Ombudsman's Charter' and the informative leaflet '*Need Help?*' and in the recruitment of my staff.

**1.3** One can safely say that within a relatively short period of time, the Swedish name of "Ombudsman" has become pretty well known here in Gibraltar. During my first year in office, all households in Gibraltar were posted the informative leaflet '*Need Help?*' The Office also launched its website in June 2000. There has been a growing awareness of the existence and operation of the Office that is reflected in the high numbers of complaints received throughout the last eighteen months. The outcome of investigations undertaken in the last months is, I believe, proof of the need for an independent authority to meet the ever growing demands of the general public for a more efficient, fair and accountable public administration.

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<sup>1</sup> The term "Ombudsman" comes from Sweden, the country in which the position of parliamentary mediator was created in 1809. It means "he/she who speaks on behalf of others."

## Section 1

**1.4** Perhaps it is significant and of interest that I should point out that at the 1987 ceremony marking the commencement of the legal year, the then leader of the Bar, Mr. Samuel Benady Q.C. spoke on a matter of importance affecting the rights of the individual. Mr. Benady pointed out that Gibraltar lacked the machinery to protect the individual against any act of maladministration by a Government Department. He explained how other jurisdictions had already established the Office of the Ombudsman, and proposed that the time had come for the appointment of such an Ombudsman here in Gibraltar to act on behalf of the community. Mr. Benady, on formulating what must have been a radical proposal, stated “ *The appointment of an Ombudsman would be a further assurance that those elected cannot, once in Office, renege on their obligation to see justice done on behalf of every individual.*” Twelve years had to elapse before Mr. Benady’s proposal materialised and the Office of the Ombudsman was established. This came about after the Gibraltar Social Democrats (‘GSD’), in their electoral manifesto, had pledged that if elected they would create such an authority.

**1.5** Within a relatively short time the Office has been able to operate quite effectively and efficiently, however, this would not have been possible without the support and encouragement received from many quarters. First and foremost I wish to express my appreciation to the House of Assembly for providing the resources and support needed. Also, to those Heads of Department and their staff for their help and openness, and all the Public Officials, who in different ways, helped me during my induction period. The help and guidance given to me and later to my staff, by Mr. Joseph Sammut, the Ombudsman of Malta and his dedicated staff were of tremendous value. My thanks to all of them for their significant help. I must also thank the local media for their interest and co-operation in covering the role and the work of this institution. A very special thanks to the voluntary members of the selection board, who so generously gave many hours, and put so much effort in helping me select my staff. Thanks also to all those involved in the refurbishment of my offices. May I also take this opportunity to thank Dr. Leslie Zammit for accepting the appointment as temporary Ombudsman to deal with one complaint in respect of which I had a personal conflict of interest.

## Section 1

**1.6** Last but not least I wish to thank my staff for their enthusiasm, commitment and hard work, without which the volume of work undertaken would not have been possible. I am deeply grateful to them and we look forward to another year of hard but socially rewarding work. Continuing to strive to uphold the Office's impartiality, improve accessibility, and generate awareness of its existence and the services it provides, is my pledge for the future.

## Section 1

# GIBRALTAR'S OMBUDSMAN

## THE OMBUDSMAN'S APPOINTMENT

**2.1** The Office of the Ombudsman is a creature of statute. It was established and is regulated by the **Public Services Ombudsman Ordinance 1998 ('the Ordinance')** that came into effect on **3 December 1998**. **Section 3 in Part II** of the Ordinance describes the procedure of appointment of Gibraltar's Ombudsman. Following the presentation of a motion in the House of Assembly on the 9<sup>th</sup> April 1999, Mr. Henry Pinna was, by unanimous resolution, nominated as Gibraltar's first Public Services Ombudsman. The Ombudsman took office on the 19<sup>th</sup> April 1999, and as part of his induction, spent a week in Malta on a working visit to the Ombudsman's Office. During that short stay much valuable information and experience was gathered that has been put into practice over the last twenty months.

**2.2** The Gibraltar's Ombudsman Office was officially opened to receive complaints on 21<sup>st</sup> October 1999.

**2.3** The Ordinance is divided into 5 parts prescribing in addition to the appointment of the Ombudsman, the investigation of complaints, procedures, functions and proceedings during and after investigations, as well as conferring certain necessary powers on the Ombudsman, including the offence of obstruction. The Schedule to the Ordinance lists the authorities within the Ombudsman's jurisdiction :-

### Schedule

#### Government.

All Gibraltar Government Departments and Agencies.

#### Statutory Bodies

Gibraltar Health Authority

## Section 2

Gibraltar Broadcasting Corporation

Gibraltar Development Corporation Limited (GDC), including the Employment and Training Board (ETB), the Tourism Board and any other sections of the GDC.

The Development and Planning Commission

The Transport Commission

The Traffic Commission

### **Public Utilities and Contractors**

Any person, company or other entity providing one or more of the following services to the Government of Gibraltar or to the general public under the terms of a contract with or a licence issued by the Crown or a statutory body.

Supply of telecommunications services

Supply of water services

Collection of any monies payable to the Government

The operation of any registry

Environmental or public health control services

Clamping, tow-away or traffic management

The cleaning or upkeep of any part of the highway or planted areas adjacent thereto

Refuse collection or incineration services

Car parking services

The management of the Alameda Gardens, the John Mackintosh Hall, the Gibraltar Museum, the Gibraltar Airport Terminal or any site, property or facility belonging to the Crown

Property management, property agency, rates collection services and land property services

Immigration services and entry point control and terminal security

Philatelic supplies

Emergency and transfer ambulance services

## Section 2

### **Part II- Other Bodies**

Calpe House, London, and Calpe House Trust

The Gibraltar Government representative office in London

The Gibraltar Government representative office in Brussels

Soon after the Ombudsman Office opened to the public it was confirmed that the **Elderly Care Agency**, known also as ‘**Mount Alvernia**’, came within the ambit of the **Gibraltar Health Authority** and therefore, consequently, came within the Ombudsman’s jurisdiction.

By **Legal Notice No.78 of 2000** Public Services Ombudsman Ordinance Amendment of Schedule Notice dated 5 October 2000, ‘*All Gibraltar Government departments and agencies, including, but without prejudice to the generality of the foregoing, the Royal Gibraltar Police*’ come within the Ombudsman’s jurisdiction.

### **THE FUNCTION OF GIBRALTAR’S OMBUDSMAN**

**2.4** The Ombudsman’s mandate is contained in the Ombudsman’s Charter, which was prepared for distribution to the general public and the media, a copy of which is available from the Office upon request. In his pledge to the people of Gibraltar, (although it must be noted that complaints are received from non-residents in like manner) the Ombudsman promises to investigate complaints against Government Departments and other providers of Public Services that come within the ambit of his jurisdiction. The main objectives of the Ombudsman as outlined in his Charter are:

- ‘To investigate and form opinions on complaints of defective public administration.
- To promote fairness in the administrative actions of Government Departments and Agencies.

## Section 2

- To promote the education role of the Ombudsman.
- To promote public awareness of the role and function of the Ombudsman – (‘a right to complain is not a right if a person is not aware of its existence.’)

**2.5** The primary function of the Ombudsman is, therefore, to provide impartial investigations on behalf of citizens who feel unjustly treated through the actions or omissions of the public administration. Corrective action may be recommended if the complaint is justified.

**2.6** The Ombudsman enjoys independence and is trusted to bring the concept of fairness when investigating all complaints brought to his attention and which fall under his jurisdiction. The Ombudsman is not limited to a strictly legal interpretation of Government activities, but rather, has to consider all factors when commenting on the fairness or otherwise of Government administrative actions.

### **THE OMBUDSMAN’S POWERS OF INVESTIGATION**

**2.7** Although the Ombudsman has no executive powers, he is allowed to make recommendations. Whilst Government is free to accept or reject them, the experience in other jurisdictions where the concept of the Ombudsman has been long established is that Governments pay serious attention to the recommendations made and a significant proportion of cases are in fact accepted. In Gibraltar, if after conducting an investigation it appears to the Ombudsman that an injustice has been caused to the person aggrieved *in consequence of maladministration* and that the injustice has not been or will not be remedied, he may, if he thinks fit, submit a **Special Report** upon the case to the Chief Minister who shall lay the same before the House of Assembly within 60 days (by **section 21 Part IV** of the Ordinance).

## Section 2

**2.8** Importantly, by **section 25 Part V** of the Ordinance, any person who, without lawful excuse, obstructs the Ombudsman or any member of his staff in the performance of their duties under the Ordinance, or is guilty of any act or omission in relation to any investigation under the Ordinance, which, if that investigation were a proceeding in a court of law, would constitute contempt of court, shall be guilty of an offence.

### **BUILDING RELATIONSHIPS**

**2.9** It is important that the Public Administration co-operate with the Office of the Ombudsman. If the Ombudsman is met with scepticism, and with an attitude of non-co-operation, it may happen that the Office may, in the long run, lose the confidence of the public. In order to facilitate the co-operation between the public administration and the Ombudsman, the Ombudsman personally visited Heads of Departments in the Civil Service, and acquainted them with his aims and objectives and requested their assistance. These meetings have proved very fruitful. It must be pointed out that so far the administration has, in a substantial manner and with few notable exceptions, reacted positively and helpfully to the Ombudsman's enquiries. It is important, however, that the public administration as a whole, and some Departments in particular, strive harder to shake off those residues of lassitude that still exist, and which at times hinder the kind of performance and service that the general public expects and demands as a right. Many of the complaints that the Ombudsman receives are on account of delays, sometimes inordinate, which members of the public are made to endure from the public administration. Even the Office of the Ombudsman has, on occasions, suffered delays in its investigations because of procrastination from certain Government Departments, Agencies or other Entities included in the Schedule to the Ordinance. This is not acceptable, and we must all redouble our efforts to remedy this, perhaps all too common, type of maladministration.

## Section 2

**2.10** In order to be effective, the Ombudsman must try to cultivate a relationship with the House of Assembly which is respectful and non-political, and which gives credence to his independence and credibility and strengthens his authority as the person entrusted to protect the citizens from acts of maladministration by Government Departments, or other providers of Public Services. He must also be provided with the required resources, both material and human, so that his role may be discharged effectively, efficiently and independently. These expenses and allowances, at such rates as may from time to time be determined, are approved by a resolution of the House of Assembly.

### **ALL AVENUES OF REDRESS MUST HAVE BEEN EXHAUSTED**

**2.11** The Ombudsman serves as a complaint mechanism of last resort. This means that the Ombudsman cannot intervene until a complainant has exhausted all avenues of appeal. Complainants are required to exhaust such remedies, and only seek the Ombudsman's intervention if they are not satisfied with the outcome. The Office also assists citizens in directing complaints to the correct department or agency, or other complaint mechanisms where these avenues have not been exhausted.

### **OBSERVATIONS**

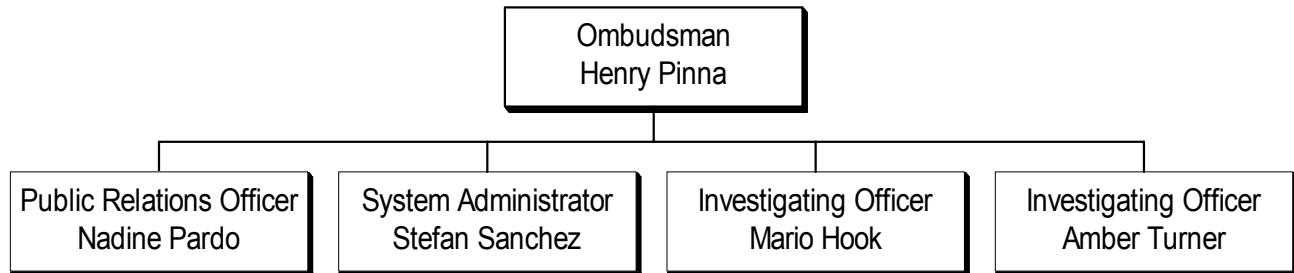
**2.12** Whereas in other jurisdictions the Ombudsman may conduct investigations on his/her initiative, Gibraltar's Ombudsman is not empowered by the Ordinance to do so. It would be a step in the right direction if the Ombudsman were allowed to exercise this discretion. This would enhance his investigative role, and enlarge his field of action.

**2.13** At present only the Gibraltar Royal Police and the Gibraltar Health Authority have their own complaints procedure. It would be of general benefit if more Government Departments and Agencies were to have their own complaints systems.

## THE ORGANISATION

**Fig. 1. Organisational Chart of the Office of the Ombudsman.**

Figure 1



### **Ombudsman**

My role as an independent investigator is to provide impartial investigations on behalf of members of the public who feel unjustly treated through the actions or omissions of the public administration. I am not an advocate or counsel for the Complainant or the Government Department or Agency being investigated. My role is to establish facts, assess them impartially and draw my own conclusions. After concluding an investigation, I am empowered to make recommendations if I feel that the Government Department, Agency or other Entity included in the Schedule to the Ordinance concerned has committed an act(s) or omission(s) constituting maladministration. These recommendations are not legally enforceable. However, the fact that this is so means that the quality of my work must be all the more objective, fair and reasonable so that my recommendations may be accepted and implemented.

At the end of an investigation I will write a report, copies of which go to the Complainant, the Government Department, Agency or Entity concerned, and the Chief Secretary.

Above everything else my role is to ensure that my Office maintains the highest degree of independence, impartiality and professional effectiveness.

## Section 3

### **Public Relations Officer (PRO )**

The main function of the PRO is to attend to all enquiries received at the Office. Complaints are received over the telephone and in person, although preferably, the PRO will arrange a convenient date and time to meet with the Complainant to discuss his/ her grievance. The Complainant will be advised at the outset that the complaint will not be entertained unless all avenues of redress have been previously exhausted. Furthermore, the Complainant is advised to bring to the meeting all documents or other evidence relating to the grievance. During the interview, the PRO takes detailed notes of the content of the complaint and later prepares a comprehensive report with any attachments for the Ombudsman's consideration. The PRO, in addition to conducting interviews, provides general assistance and advice, including conducting preliminary enquiries with the Government Department/ Agency concerned. This sometimes leads to the informal resolution of a Complainant's grievance without the need for the Ombudsman's intervention. The PRO inputs information pertaining to the matters dealt with in a computerised Case Management System, allowing for the constant monitoring of cases.

The Ombudsman places a high value on the work of the PRO given that she is the first point of contact with the general public and hence the first impression given of the Office. Furthermore, the PRO acts as a 'filter' system in resolving through informal action a large number of cases, enabling the Ombudsman and Investigating Officers to investigate only those cases warranting formal action.

### **System Administrator (SA )**

The main function of the SA is to maintain the Office's computer network and computer hardware (printers, fax, modems and so on), the backing-up of data, updating the Office's website, installing software products and hardware peripherals and word processing for the Ombudsman. Other duties include assisting the PRO and Investigating Officers with any computer related problems and the close monitoring of the Case Management System.

## Section 3

The SA also works on the layout and presentation of the Annual Report, collating all statistical information from the Case Management System and presenting such information by means of statistical figures, tables and charts.

### **Investigating Officers (IO's)**

The fundamental day to day task of the two IO's is to deal with the investigation of 'formal' complaints, that is, those complaints that are more factually and often legally complex in nature and consequently require thorough research of administrative procedures, practices, policies and the pertinent local and European legislation where applicable.

The allegations made by a Complainant(s) are put to the relevant department(s), agency(ies) and/or individual(s) in order to grant them the opportunity to investigate internally and either accept or refute what is claimed by the Complainant to have occurred. The investigation may be concluded through correspondence, however, at times during an investigation it may be necessary to interview persons, retrieve files, undertake site visits, and instruct professionals in particular fields to advise and/or conduct surveys.

During the investigation the I.O.s meet with the Ombudsman for weekly reviews of all cases being investigated so that by the end of the investigation the Ombudsman reviews the case and makes an objective decision as to whether the Complainant's grievance is sustained or not. Depending on the nature of the case the Ombudsman may make critical observations in his conclusions or may decide that the case warrants that he make recommendations to 'put right the wrong'. The I.O.s communicate these recommendations to the department/agency concerned, ascertain whether they will be accepted and of paramount importance, whether they are workable and will be implemented in practice. The case is then concluded and a Report of the investigation prepared for the Complainant and the department(s)/agency(ies)/individual(s) concerned. A summary of the case is prepared contemporaneously for inclusion in the Ombudsman's Annual Report, omitting references that could identify the Complainant(s).

## Section 3

### COMPLAINTS

**4.1** The primary function of the Office of the Ombudsman is to conduct investigations against alleged maladministration by those Entities listed in the Schedule to the Ordinance (as amended) that are within the Ombudsman's jurisdiction. However, not all the complaints that are received need a formal investigation. When a complaint comes to the Office, the Ombudsman tries to make a fair assessment to determine whether it should be formally investigated or be resolved by informal action, or not be investigated at all on account of the complaint being outside the Ombudsman's jurisdiction, or being considered trivial or vexatious. Cases that involve issues of serious or significant maladministration will probably be subject to a formal investigation.

**4.2** Once a case has been fully investigated and concluded, a report of the investigation is sent to the Complainant and copies to the Chief Secretary and to the Entity, which prompted the complaint.

**4.3** The Office is committed to dealing with cases within a set time-scale, and the Ombudsman cannot allow the tempo of his work to be synchronised to that of the Entity under investigation if this results in undue delays to the effective conclusion of an investigation. To allow this would be contrary to the essential ethos of the Ombudsman's Office, and would result in the Office losing effectiveness and consequently credibility.

**4.4** Promptness in dealing with cases is one of the characteristics of an Ombudsman's Office. In order to fulfil the targets set in the Charter, a close watch is constantly kept on investigative procedures so as to ensure that these are carried out as speedily and as thoroughly as possible. Every complaint received by the Office is logged into a computerised Case Management System, thus enabling the constant monitoring of every complaint. The software for this system was obtained from Malta's Ombudsman Office and introduced into the Office by the Systems Administrator.

## Section 4

### WORKLOAD : STATISTICAL ANALYSIS OF COMPLAINTS

By the end of 1999, 153 complaints had been received. Out of these, 115 complaints had been closed after formal or informal investigation, and 38 had remained unresolved pending further investigation into the year 2000. 75% of complaints had been processed and closed by the end of 1999. The Office officially opened to the general public in October 1999, in which month 41 complaints were received. In November 1999 there was a slight increase in the number of complaints received, this being 51. December 1999 experienced a slight decrease with 40 complaints, nearly matching October's figure.

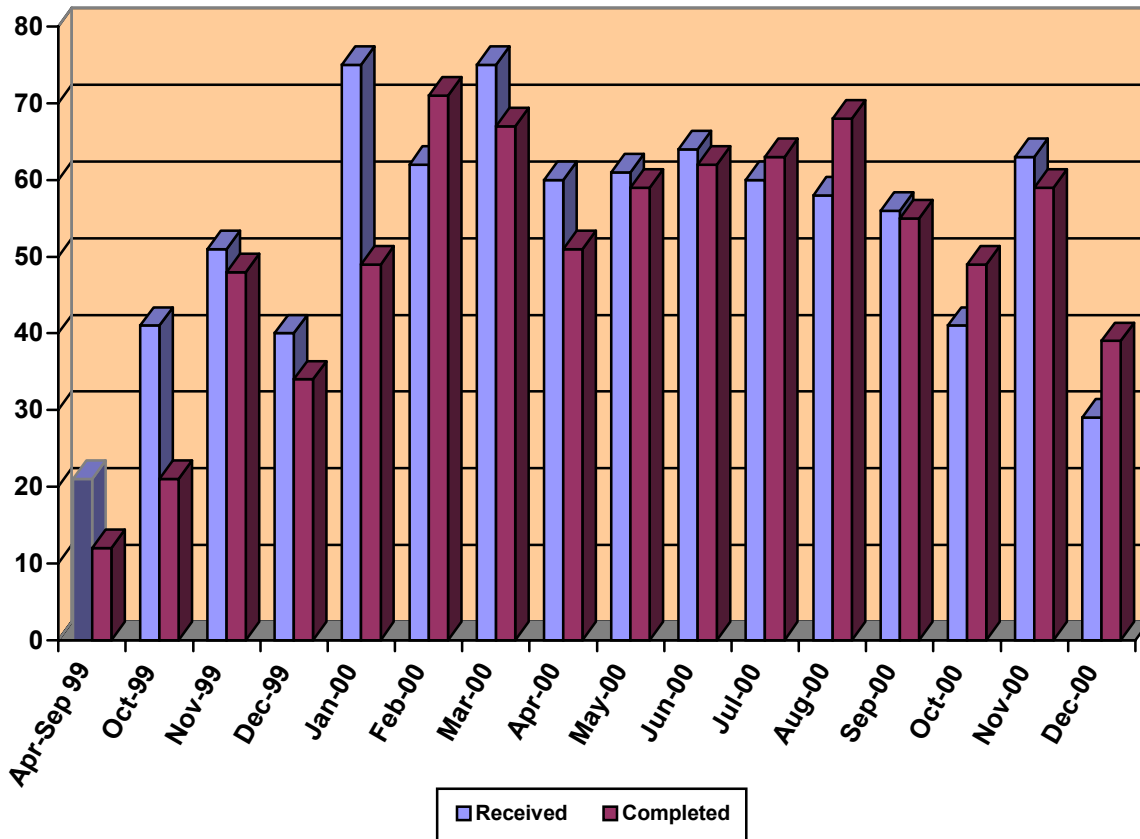
Figure 2 : Complaints received, completed and current by month.

	1999			2000		
	Received	Completed	Current	Received	Completed	Current
						38
January	-	-	-	75	49	64
February	-	-	-	62	71	55
March	-	-	-	75	67	63
April	4	1	3	60	51	72
May	-	-	-	61	59	74
June	1	3	1	64	62	76
July	6	2	5	60	63	73
August	3	2	6	58	68	63
September	7	4	9	56	55	64
October	41	21	29	41	49	56
November	51	48	32	63	59	60
December	40	34	38	29	39	50
TOTAL	153	115		704	692	
Enquiries	36			76		

Into the year 2000, 3 months after the official opening of the Office, the number of complaints received increased substantially. 75 complaints were received in both January and March 2000, this being the highest number of complaints received since the official opening of the Office. The total number of complaints received throughout the year 2000 was 704 complaints. This represented a monthly average of 59 complaints.

## Section 4

Figure 3 :Table showing complaints received and completed per month.



February 2000 saw the highest number of complaints completed at 71.

In total **807** complaints (115 in **1999** and 692 in **2000**) have been completed between April 1999 to December 2000.

At the end of the year 2000, approximately 93 % of complaints had been processed leaving 50 to be brought forward to the year 2001.

## Section 4

In total 857 complaints were received between April 1999 to December 2000 of which 96 were against private organisations which were outside the Ombudsman's jurisdiction, thus leaving a total of 761 complaints received against Government Departments and Agencies.

Complaints received against Govt. Departments and Agencies at end of December 2000.

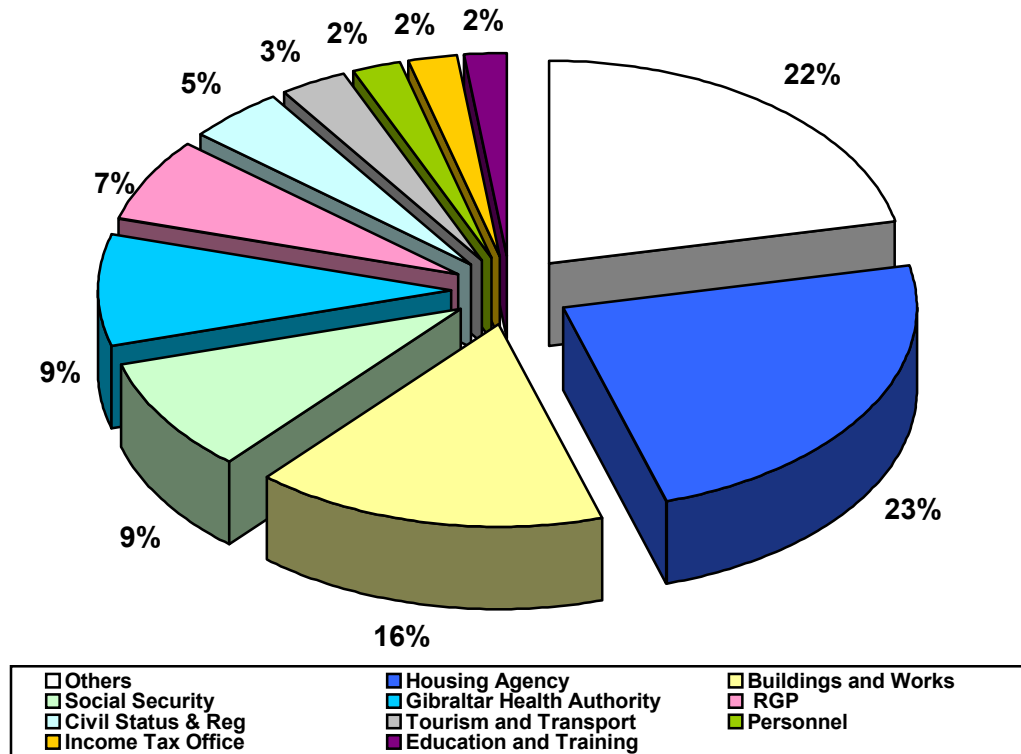
Figure 4.

<i>DEPARTMENT</i>	<i>QTY</i>	<i>DEPARTMENT</i>	<i>QTY</i>
Attorney General's	6	Gibraltar Telecommunications (GIBTEL)	0
Buildings and Works	123	House of Assembly	0
City Fire Brigade	1	Housing Agency	177
Civil Status and Registration Office	34	Income Tax Office	16
Companies House (Gib) Ltd	0	Judiciary	13
Customs	2	Land Property Services Ltd	9
Development and Planning Commission	6	Lyonnaise Des Eaux Ltd	8
Education and Training	15	Master Service (Gib) Ltd	2
Elderly Care Agency	2	Office of the Chief Minister	7
Electricity	3	Personnel	16
Employment Service	14	Port	4
Environment	7	Procurement Office	3
Environmental Agency Ltd	14	Prison Service	1
Financial & Development Secretary	3	Royal Gibraltar Police	50
Gibraltar Air Terminal	0	Social Security	68
Gibraltar Audit Office	0	Social Services Agency	9
Gibraltar Botanical Gardens	1	Sports	1
Gibraltar Broadcasting Corp (GBC)	0	Technical Services	8
Gibraltar Health Authority	67	Tourism and Transport	23
Gibraltar Nynex Comm Ltd (GNC)	10	Trade, Industry and Telecommunications	7
Gibraltar Philatelic Bureau Ltd	0	Traffic Commission	11
Gibraltar Post Office	6	Treasury	4
Gibraltar Security Services (GSS)	7	Others (Miscellaneous)	3
<b>TOTAL :</b>			<b>761</b>

## Section 4

The Housing Agency and the Buildings and Works Department attracted the most complaints, with 23% and 16% respectively. There was also a significant number of complaints against the Department of Social Security and the Gibraltar Health Authority with 9% of the complaints.

Figure 5 : Complaints received by Govt. Department or Agency at end of 2000



Other Departments followed closely in numbers of complaints received. These were the Royal Gibraltar Police with 7%, the Civil Status and Registration Office with 5%, Tourism and Transport with 3%, and then, the Income Tax Office, the Personnel and the Education Departments with 2% of the complaints each.

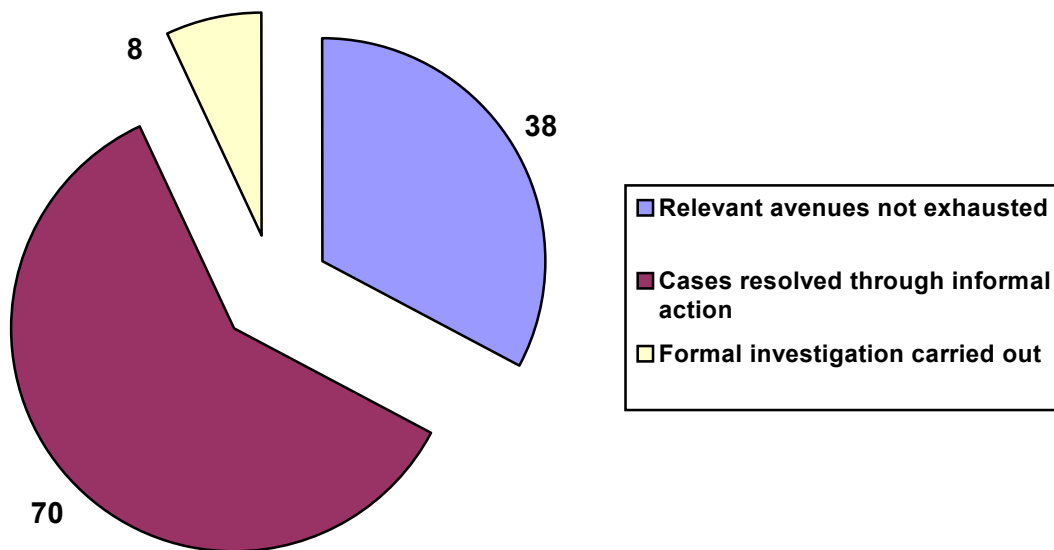
All the remaining Departments or Agencies listed in *Figure 4. Page. 18* made up the rest of the complaints, (21%) of the pie-chart.

## Section 4

**BUILDINGS AND WORKS DEPARTMENT**

The large number of complaints received against the Buildings and Works Department which comprises 16% (see **Figure 5. Page 19**) of all the complaints received by the Office of the Ombudsman against Government Departments, Agencies and the other Entities included in the Schedule to the Ordinance (as amended), clearly demonstrates that the Government must dedicate more attention and take forward-looking vigorous action towards resolving the long-standing, and deeply entrenched problems affecting the Department. There is general consensus in the assertion that the services which the Department renders to the general public is wholly unacceptable, and needs to be substantially improved.

**Figure 6**



(Figure 6.) Classification of complaints made against the Buildings and Works Dept. illustrates that most of the complaints received against Buildings and Works Dept. are either resolved though informal action, or the possible avenues against the Department have not been fully exhausted by the Complainant.

## Section 4

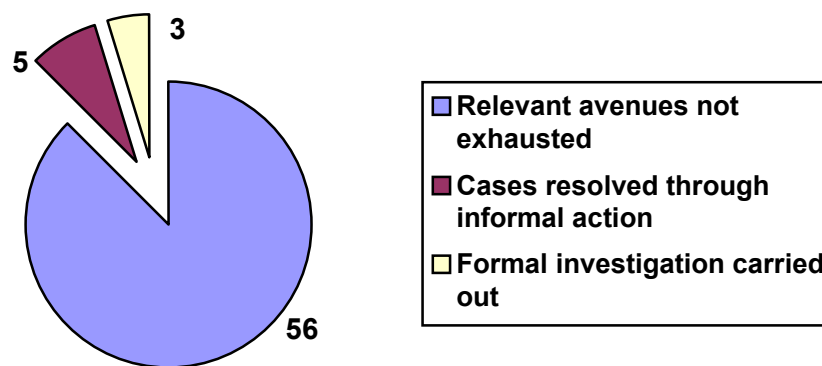
The complaints are wide-ranging, but the majority involve inordinate delay in having works done, and the difficulties which members of the public encounter when, after having made their report, they try to seek information as to when the works are going to be tackled. There is a general lack of communication between the Department and the general public, which badly undermines the confidence and trust that should ideally exist, but which at present is sadly lacking. The Department should, as a first step towards making itself more accountable to the general public, set up its own in-house user friendly complaints mechanism. This should go a long way towards assessing the level, range and nature of complaints received, and assist the Department in improving its services and image. It is hoped that the feedback collected, some of which is here illustrated in the way of reports, may serve as a catalyst for change.

**GIBRALTAR HEALTH AUTHORITY**

The Gibraltar Health Authority ('GHA') has its own Complaints' Procedure. Although the Ombudsman is not precluded from investigating complaints before these have been fully processed first by the GHA Complaints' Procedure, the Ombudsman's preferred practice, in deference to the existing GHA procedure and practice, is to allow Complainants to have recourse to his Office only after the GHA's investigation has been completed and Complainants have remained dissatisfied with the outcome of the GHA's investigation into their complaints.

Regrettably to date, the Ombudsman has only been able to conduct three formal investigations involving administrative complaints made against the GHA. He has not been able to formally investigate any of the clinical complaints brought to his attention, the reason being that the investigations into these complaints have been held up in the GHA Complaints Procedure and none have been concluded. It seems that instead of the Complainant exhausting his/ her avenue(s) of redress, the GHA Complaints Procedure exhausts them. Needless to say these excessive delays give rise to anger and frustration amongst Complainants.

**Figure 7**



**Figure 7.** Classification of complaints made against the Gibraltar Health Authority.

## Section 4

The GHA was approached by the Ombudsman and asked to explain why investigations into complaints were not being concluded. The reasons forwarded ranged from the GHA having insufficient resources or the designated officer not having enough authority to deal with the investigations to the lack of co-operation received from those being investigated, who in some cases, may be deliberately obstructing investigation by not co-operating with the system. The Ombudsman is of the view that this situation is inadmissible and that Government must either equip the GHA Complaints Procedure with the necessary resources and the designated officer with sufficient authority to conduct and conclude investigations of complaints or refer complaints against the GHA to an independent authority that will properly and effectively investigate such complaints.

The GHA Complaints Board, which is established under the terms of the procedure to monitor its operation submitted its report to the Ombudsman as required by the Complaints Procedure. It is evident that the Board has been dissatisfied for some time with the efficacy of the procedure. It is equally evident that the GHA has to date, not been able to address the Board's concerns.

### THE HOUSING AGENCY

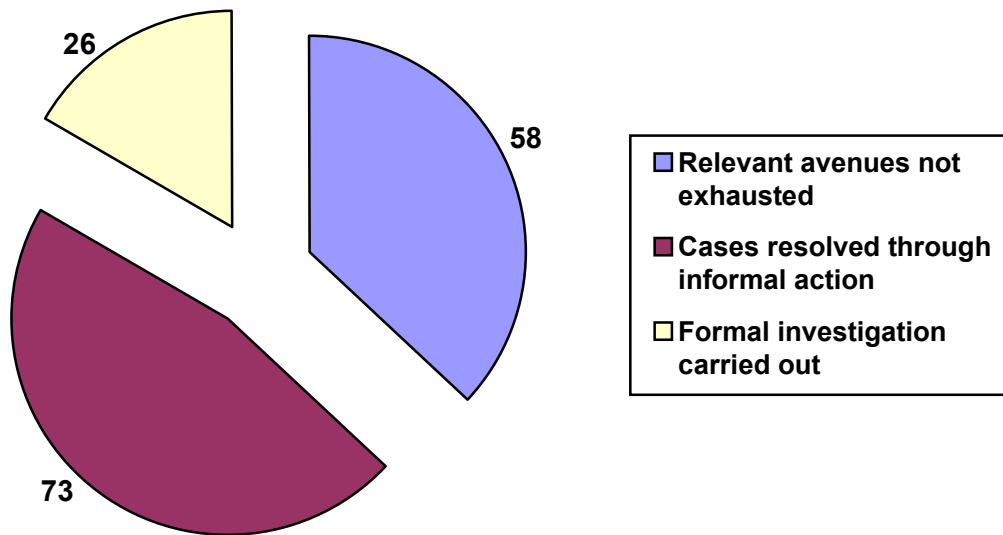
This is an Agency that, because of its very nature, continues to attract a large number of complaints. Out of a total of **761** complaints received by the Office of the Ombudsman against Government Departments, Agencies or other Entities, **177** were against the Housing Agency. It is obvious from the nature of the complaints brought to the attention of the Ombudsman, that many of these could have been avoided had the Agency been more diligent in communicating with members of the general public. On many instances the Ombudsman has had to intervene to ensure that Complainants obtained replies to letters which had been addressed to the Agency six, and even eight months before. These complaints were brought to the attention of the Agency who assured the Ombudsman that a system would be put in place to address this matter.

It is also essential that the existing policy involving the exchanges of flats is strictly adhered to, thus averting complaints from members of the public about irregularities and exceptions to the rule, as has been the case during the past months at least on one occasion. Another area which attracts many adverse comments and complaints is the large number of empty flats, both pre-war and post-war which lie vacant for long periods of time before being allocated. The Housing Agency is not, however, to blame for this state of affairs, but rather the Department whose responsibility it is to ensure that vacant flats are refurbished without undue delay. This Department is the Buildings and Works Department which has already been mentioned adversely in this report.

## Section 4

Out of a total of 99 complaints which were investigated, 26 were formally investigated, and 73 were closed after informal action. (See **Figure 8**)

**Figure 8**



### ROYAL GIBRALTAR POLICE

The Police Complaints Board has, since it was set up, attracted some criticism from the public and its independence and credibility put into question.

The Board consists of two civilians who are independent of the Police, and two senior Police Officers. The Chairman of the Board is the Commissioner of Police.

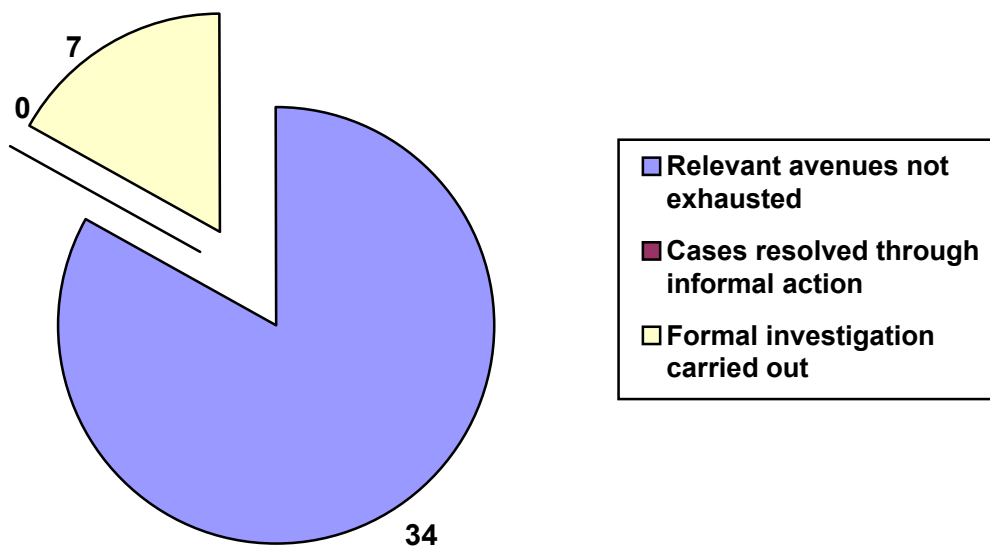
During the past three years or so, some significant measures have been introduced which have resulted in making the Board more accountable and user-friendly. Complaints are now made to an outside authority, who is a civilian with no connections to the Force, and his Office is not within the precinct of the Police Stations. An important change in the regulation was also introduced by which the Police Officer(s) against whom the complaint(s) is/are made is/are not allowed to be present. This was not the case in the past, and the presence of the Officer(s) against whom the complaint(s) was/were being made was seen, and rightly so, by the Complainant(s) as an intimidation. A Doctor is now available on request by the Police. This brings into certain situations, a medical input which was lacking before.

Notwithstanding the introduction of these measures, which are to be welcomed, the credibility of the Police Complaints Board would be further enhanced if other steps were to be taken. As previously stated, the Commissioner of Police is the Chairman of the Board. It would certainly be a step in the right direction if the post of Chairman were to be taken up by a civilian with a purely civilian background. The appointed person would have to have the necessary powers to execute his/her functions. These powers should be akin to those vested in the Ombudsman. This measure, if adopted, would greatly enhance the image of independence of the Board, thus making it more acceptable to the general public.

## Section 4

When confronted with the investigation of an exceptional case the Board should have the power to enlist the support of an “Outside Force” to carry out the said investigation. This measure would further strengthen the function of the Board making it more effective and forceful.

**Figure 9**



**(Figure 9)** Classification of complaints made against the Royal Gibraltar Police illustrates that most of the complaints received have not been investigated by the Ombudsman because existing avenues have not been exhausted by the Complainants.

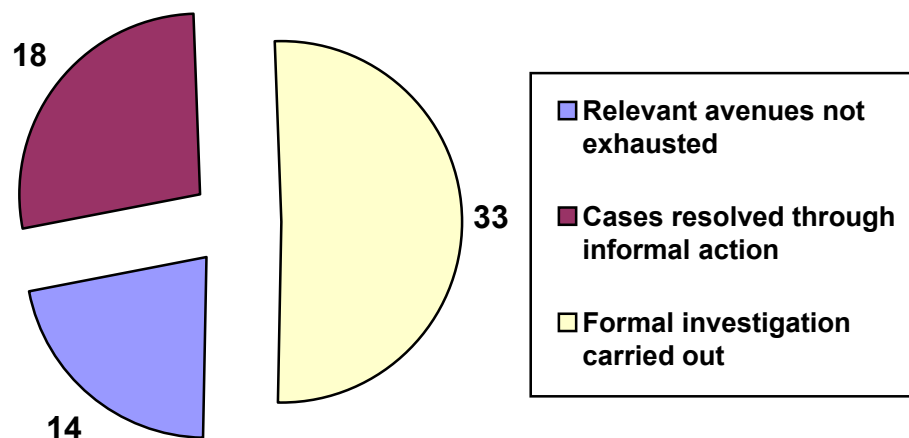
**DEPARTMENT OF SOCIAL SECURITY**

During the past twenty months the Ombudsman has received a number of complaints from persons who had had their social assistance stopped on the assumption that the persons involved were cohabiting with partners who brought an income into the household. In each and every such case the Ombudsman pointed out that this practice was totally unacceptable. The Ombudsman recommended that the Department should enjoy the benefits of its own fraud investigator. This, the Ombudsman explained, should have the effect of ensuring that when the Department makes investigations regarding possible fraud, this would be backed by solid and reliable evidence, and not by hearsay.

The Ombudsman’s recommendation was accepted by the Government in early May 2000. However, at the time of printing this report seven months later, the Fraud Investigator had not yet been appointed.

There was a high number of complaints against the Department of Social Security which involved carrying out formal investigations. (See Figure 10)

Figure 10



## Section 4

There was a total number of 33 formal investigations carried out in respect of the different services provided by the five sections within this Department (See Figure 11). The following is a break-up of the formal investigations undertaken:

Social Assistance Section	18
Pensions Section	9
Contributions Section	3
Unemployment Benefit Section	2
Key & Anchor Branch	1
<b><i>TOTAL</i></b>	<b>33</b>

Figure 11

