

**CASE SUSTAINED
RECOMMENDATION MADE**

CS/570

**COMPLAINT AGAINST THE CIVIL STATUS & REGISTRATION OFFICE
FOR INORDINATE DELAY IN DEALING WITH THE COMPLAINANT'S
APPLICATION FOR EXEMPTION FROM IMMIGRATION RESTRICTIONS**

The Complainant was a Moroccan national who was widowed from her British husband in May 1992, a relatively short period of time after their marriage.

In early October 1999, availing herself of the provisions of Section 12(2) Immigration Control Ordinance the Complainant applied for exemption from the immigration restrictions imposed by Section 12(1) of that same ordinance. Her aim was to apply for naturalization under the provisions of section 18(1) of the British Nationality Act 1981 and being granted this exemption would pave the way for such an application by the Complainant.

On 12 July 2002 she complained to the Ombudsman that she had still not received a reply to her application.

By letter dated 19 August 2002 the CSRO informed the Ombudsman that there were a very considerable number of applications currently being processed. These were referred in batches to the Government and finally to the Governor for consideration. The Complainant's application would be included in the next batch to be sent. The CSRO pointed out that the Complainant had been in Gibraltar for approximately eleven years, not very long when compared to other applicants. She was unable to speak or understand English, she worked as a cleaner and would therefore become a burden on public funds were she to become unemployed and not be able to secure alternative employment. In these circumstances it was unlikely that her application would succeed. The CSRO stressed that the process of considering applications could be protracted and it was therefore not possible to indicate when the Governor would reach a decision. Satisfied with this answer the Ombudsman decided to suspend his enquiries.

Nearly two years later, on 15 June 2004 the CSRO informed the Ombudsman that the Complainant's application had been considered by Government in March 2003 but that the Governor had still to make a final decision. The CSRO reassured the Ombudsman that even though a very long time had passed since the application was first made, they could confirm that the reason for this was not perversity and that this and other applications were under active consideration.

After careful consideration the Ombudsman pointed out that even though the inordinate delay in replying to the Complainant's application was not the fault of the CSRO he put

himself in the Complainant's shoes who had been waiting for a reply to her application, at the time of writing, for close to five years. In all of this time he believed that the Complainant had not even received one letter apologising for the delay and providing her with some sort of explanation. The Ombudsman sustained the complaint and recommended that in cases such as this, quarterly or possibly half yearly letters should be sent to the applicant apologising for the delay and reassuring him or her that the application was still under consideration.

UPDATE

The CSRO expressed to the Ombudsman the view that, at least for the foreseeable future, the long delays experienced in receiving information by those who apply for exemption from the requirements of Section 12(1) of the Immigration Control Ordinance would be likely to continue. However, in order to make its procedures more 'consumer friendly' he accepted the Ombudsman's proposal that a letter containing the following information should be sent to the applicant upon receipt of any application: acknowledgement of receipt of the application; information as to the different steps that the application will need to go through; an approximate time frame within which the applicant would be given an appointment for the required interview (where applicable); sufficient information to explain that the process is lengthy and that it is not practical to provide written updates however, applicants will be able to seek information in person by seeking an appointment with an officer.