The Gibraltar Public Services

Ombudsman

'I had lost all faith in myself because of my problems. I did not believe anyone could help me, but thanks to you I now know that there is someone who does care about things that happen to people'

The masculine form is used in this text to designate both male and female, where applicable.

Front cover quote (see Page 4)

The Gibraltar Public Services
Ombudsman

March 2007

The Honourable Peter Caruana Q.C.
Chief Minister
Office of the Chief Minister
No. 6 Convent Place
Gibraltar

Dear Mr. Caruana,

It is an honour for me to present the Public Services Ombudsman's seventh annual report. This report covers the period 1st January to 31st December 2006.

This report has been prepared in accordance with the Public Services Ombudsman Ordinance 1998. It contains summaries of investigations undertaken and completed during this period together with reviews and comments of the most salient issues of this last year.

I have introduced this new format so that it will be much more widely available than hitherto. It is my intention to circulate this report as widely as possible.

The Report includes a separate Annexe which contains the investigations which we have completed during the year 2006.

Yours sincerely

Mario M Hook
Ombudsman

FRONT COVER QUOTE

Every year, we search books of reference and sites in the internet to select a number of quotes that would be appropriate to print on our front cover. The quote must be in keeping with the work of the Ombudsman and inspirational.

In the past the quotes used have been from well known persons of international standing such as Nelson Mandela. This year, we carried out our research and, as usual, chose a few quotes that would be appropriate to print in our front cover. In the end, however, I found, what in my opinion is an appropriate and inspirational quote which, instead of coming from a well known person, is attributed to an anonymous user of the services provided by the Ombudsman in Gibraltar.

This anonymous respondent to our Satisfaction of Service Survey wrote:

> *'I had lost all faith in myself because of my problems. I did not believe anyone could help me, but thanks to you I now know that there is someone who does care about things that happen to people'*

When I read these words, I was deeply touched and they encouraged me to continue to perform my work to the best of my ability.

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QUALITY OF SERVICE

1
Introduction

The Ombudsman's seventh Annual Report...

INTRODUCTION

A NEW REPORTING STYLE

This is the Ombudsman's seventh Annual Report (my fourth). This report marks an effective departure point from the hitherto established format. I believe this makes this report the most exciting of all the reports I have so far submitted.

In the past, our reports have contained a small element of comment on the performance of some of the entities under our jurisdiction and a file-type of account of the reports prepared by the Ombudsman pursuant to those complaints received that warranted such reports. Whilst I am of the opinion that this type of Annual Report provides a good reporting process and offers an ample view of the work of the Ombudsman on the individual reports, the new format being presented in this Report offers an improved insight on the work of those bodies in jurisdiction and an amplified opportunity for the Ombudsman to offer comment on the various issues that have arisen throughout the last year. It is also in keeping with the reporting procedures that most other jurisdictions offer.

Gibraltar owes a huge debt of gratitude to Mr Henry Pinna, Gibraltar's first Ombudsman, for the magnificent work that he carried out during his three years of tenure as Ombudsman. The level of success that he achieved in establishing the concept of the Ombudsman in Gibraltar must surely be immeasurable. He defined the format and produced the fist three Annual Reports. The same format was adopted by me, albeit in a different style, and has continued as such until now. I believe that its now time to move on, depart from our original reporting method and progress to a more dynamic reporting system. Of course, the full contents of the reports will still be available and will be presented as an Annexe to this Report and laid before our Parliament so as to enable me to offer it to the media for publication.

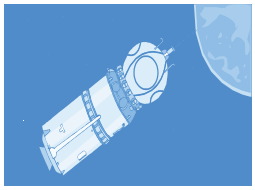
In order to be in a position to offer this new kind of reporting method, my office has had to undergo substantial changes to its working practices. The mapping of this change has not been easy and often I have found myself pondering on whether I had taken the correct decision or otherwise. I am grateful to my staff for putting up with constant adjustments to our methods where at times it appeared that I had lost control of the changes that I so obstinately wished to introduce. I was, however, driven by a desire to bring our Report in line with the international standards that we regularly see in Annual Reports from all over the world.

During nearly the whole of the past three years, certainly the past two, I have had in mind this change of style and begun to implement changes to our working systems in order to arrive at this defining moment. Without, the ability to produce reliable and sufficiently dissected information and statistics, it would be impossible to produce this type of report. We had to invest in computers and there were long working sessions with our in-house Information Technology Officer who designed a new Case Management System that met my requirements of flexibility and capability to be altered to meet new demands and or ideas.

INTRODUCTION

I am happy to present to my fellow Gibraltarians this, the Ombudsman's seventh Annual Report, in the hope that it will be well received.

Mario M Hook
Ombudsman



2
Mission Statement

'Words of Wisdom'-our guiding philosophy ever since the doors of the Office of the Ombudsman were first opened to the public.

MISSION STATEMENT

THE 'O' TEAM, PICTURED FROM LEFT TO RIGHT; NADINE PARDO, PUBLIC RELATIONS OFFICER; STEFFAN SANCHEZ, SYSTEM ADMINISTRATOR; ELOISE RUIZ, RECEPTIONIST; MARIO M HOOK, OMBUDSMAN; TONIA JOHNSON, INVESTIGATING OFFICER; AND JAMES ROSADO, SENIOR INVESTIGATING OFFICER

MISSION STATEMENT

OUR MISSION STATEMENT

In past reports, I have included the 'Words of Wisdom' that has been our guiding philosophy ever since the doors of the Office of the Ombudsman were first opened to the public. I consider then to be a very important part of our daily work and I reproduce them to illustrate the purpose of our work.

Words of Wisdom

A customer is the most important
visitor on our premises

He is not dependent on us
We are dependent on him

He is not an interruption to our work
He is the purpose of it

He is not an outsider to our business
He is part of it

We are not doing him a favour by serving him
He is doing us a favour by giving us an opportunity to do so

Mahatma Ghandi

MISSION STATEMENT

STATEMENT OF PURPOSE

We believe our purpose is:

1. **To be at the service of the People of Gibraltar**

2. **To assist those who seek our assistance**

3. **To communicate the complaint to those under our jurisdiction**

4. **To unbiased in the course of our investigations**

5. **To be unbiased when deciding the outcome of complaints**

To fulfil our purpose we will:

1. Always endeavour to provide advice and point people in the right direction to the best of our ability. We may not always be able to find a solution to the many problems that come our way every day, but certainly we shall provide assistance.

2. Make ourselves available with the minimum of delay and ensure we understand the problem as presented to us.

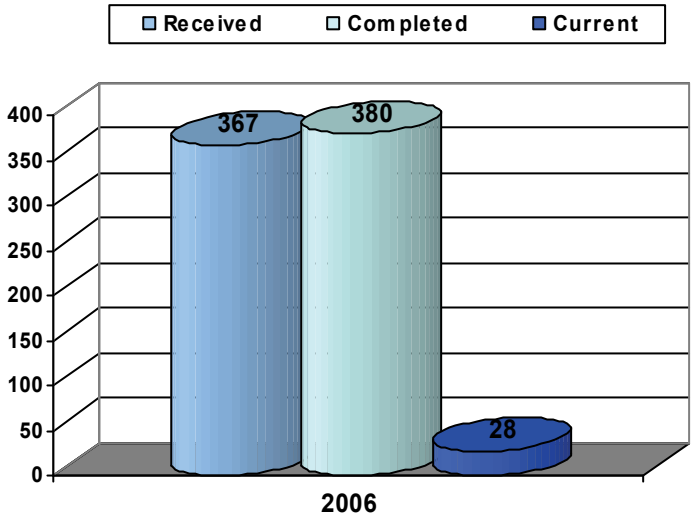
3. Make sure that the entity being complained about is presented with a clear statement of the complaint and take careful account of their versions of events.

4. Listen to the Complainant and the entity being complained about.

5. Carefully consider all the information available to us and only reach a decision when we are satisfied that the parties have been able to make representations to the full.

VOLUME OF COMPLAINTS

Table 1 Complaints received/completed & current 2006



This year, we received 367 complaints, a reduction of 45 complaints compared to 2005. 380 complaints were completed by the end of the year including those outstanding from 2005 and this only left 28 complaints open by the end of 2006.

Complaints received, completed & current by month – 2005 & 2006

Table 2

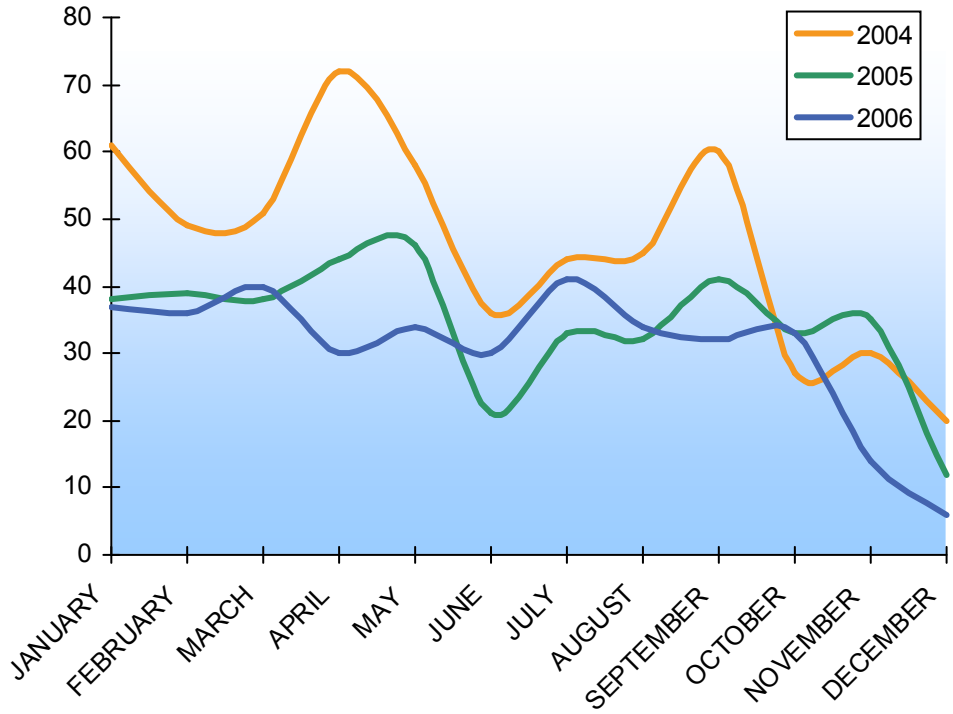
	2005			2006		
	Received	Completed	Current	Received	Completed	Current
			40			41
January	38	31	47	37	29	49
February	39	40	46	36	39	46
March	38	39	45	40	24	62
April	44	37	52	30	25	67
May	46	49	49	34	33	68
June	21	16	54	30	34	64
July	33	32	55	41	39	66
August	32	30	57	34	38	62
September	41	35	63	32	29	65
October	33	26	70	33	44	54
November	35	38	67	14	17	51
December	12	38	41	6	29	28
TOTAL	412	411		367	380	
Enquiries	213			186		

There have been 367 complaints and 186 enquiries received in the office in 2006. This represents an average of around about 31 complaints per month. There has been a steady flow of complaints lodged at our office with July being the month with the most complaints received with 41. July was also the month were we received more enquiries with a total number of 25. On the other hand October was also a busy month in respect to having the most complaints completed with 44.

STATISTICS 2006

Chart showing progression of monthly complaints received in 2004, 2005 & 2006

Table 3

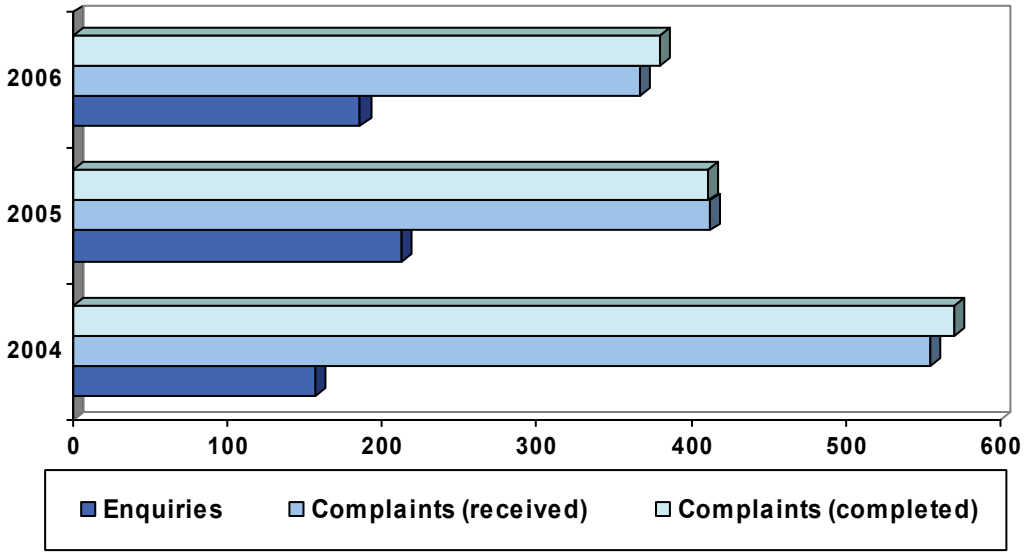


During the first quarter of 2006 there were 113 complaints received in the office, just two complaints less than the first quarter of last year. (*2006, 37-36-40*; *2005, 38-39-38*) Last year April and May were the busiest months of the year but surprisingly enough this year they have not been as busy. This year during the summer months (June, July and August) we have received 19 more complaints than the previous year and even though summer is very quiet, one has to note that July 2006 has been the busiest month of the year as a result of the sudden influx of complaints received against the Gibraltar Electricity Authority for sending final-notice letters to household tenants informing them that if payment of their electricity bill arrears were not met by a certain time their electricity supply would be cut off. The abrupt manner in which the Gibraltar Electricity carried out the operation was not received well by the general public and hence the 6 enquires and 14 complaints received in our office during the month of July. Although this year in September there has been less complaints than last year one can say it has been quite a steady month and similar to October with more than 30 complaints each received per month. From November onwards complaints received in the office decreased substantially with December reaching a new low. It seems that members of the public are in such a good mood during the festive season that they leave their grievances to one side!

STATISTICS 2006

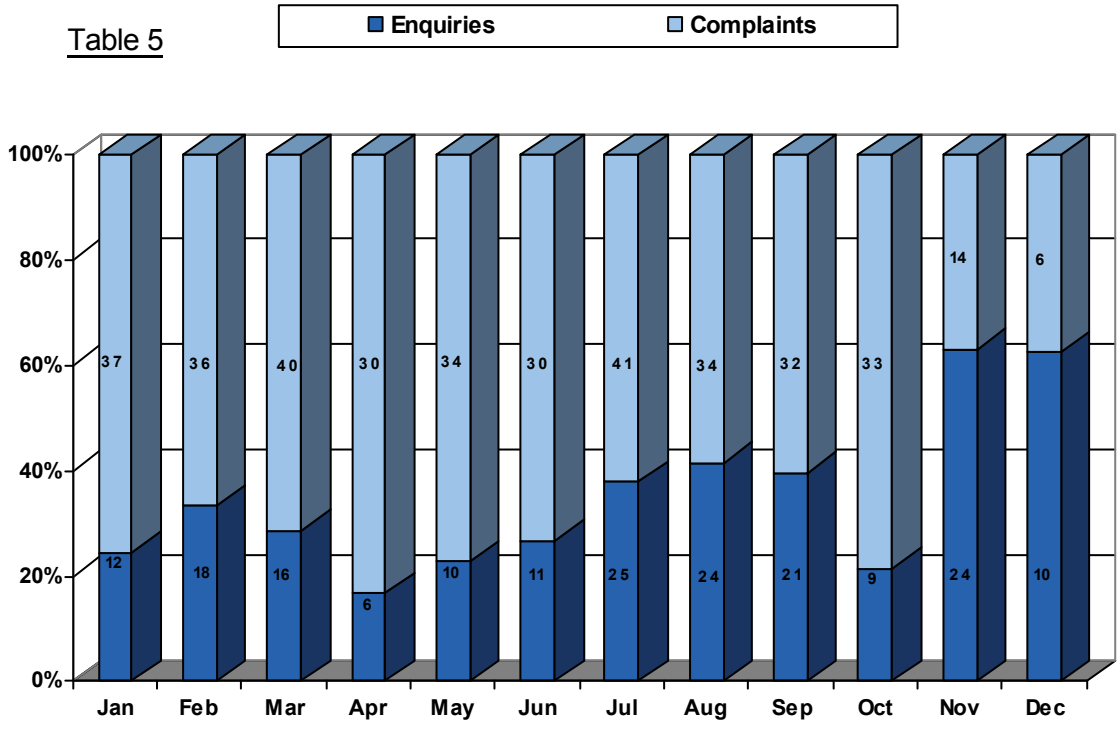
Breakdown of Complaints/Enquiries received and completed from 2004-2006

Table 4



Complaints/Enquiries received per month in 2006

Table 5



STATISTICS 2006

BREAKDOWN OF COMPLAINTS/ENQUIRIES

This year we have received 367 complaints, 43 were against private organisations that fall outside the Ombudsman's jurisdiction. This left a total of 324 complaints received against government departments, agencies and other entities. The trend of complaints has continued along the same lines as in previous years. The Housing Department, Buildings and Works Department, Department of Social Security, Royal Gibraltar Police, Gibraltar Health Authority and the Civil Status and Registration Office again top the list attracting the highest number of complaints. This year there has been a substantial reduction of complaints against the Housing Department, from 130 to 94. There are a number of factors that has influenced this reduction of complaints but the most significant factor has been the construction of new housing by the government which has reduced the number of applicants for housing and hence less pressure on the waiting lists.

Table 6-Dept/Agency	Enquiry	Complaint	Dept/Agency	Enquiry	Complaint
Aqua Gib	-	2	Housing Department	69	94
Attorney Generals	-	1	Human Resources	6	4
Buildings and Works	4	37	Income Tax Office	0	12
Civil Status & Registration	22	17	Land Property Services Ltd	3	11
Companies House Ltd	-	-	Magistrate's Court	2	3
Culture Office	-	1	Master Services Ltd	-	-
Customs	-	1	Office of the Chief Minister	2	4
Development & Planning	2	2	Port	-	1
Education & Training	5	3	Procurement Office	-	-
Elderly Care Agency	-	1	Prison Service	-	1
Employment Service	6	6	Reporting Office	1	1
Environment	-	1	Royal Gibraltar Police	2	19
Environmental Agency	3	-	Social Security	13	25
Financial & Develop Sec	-	1	Social Services Agency	4	16
Gibraltar Broadcasting Corp	-	-	Supreme Court	4	3
Gibraltar Electricity Auth	6	14	Technical Services	9	2
Gibraltar Health Authority	10	18	Transport & Licensing	1	8
Gibraltar Post Office	-	-	Trade, Industry & Tel	0	4
Gibtelecom	-	3	Traffic Commission	2	4
GRP Investments	1	2	Treasury	1	2
			TOTAL :	178	324

It is interesting to note that this year, complaints against the Education and Training Department have substantially decreased from 13 to just 3.

STATISTICS 2006

3
Good Administration

'The following are broad statements of what we believe bodies within our jurisdiction should be doing to deliver good administration and good customer service'.

Table 7

No	Nature of complaint	Recommendation	Dept
643	Complainant aggrieved in respect of the processing of applications for British Overseas Territories Citizenship under s15(4) British Nationality Act 1981	The Complainant's application should be reconsidered.	Civil Status
648	Refusal to honour an alleged agreement to backdate the Complainant's housing application to 2003	The Department allow individuals who are not able to use their flat for genuine legal reasons to be included on the waiting list. Their applications could be frozen whilst accruing points, but they would only be offered government accommodation as from when the divorce was finalized and all the paperwork completed.	Housing
654	Failure to convene the Medical Appeals Tribunal.	The Medical Appeals Tribunal should be constituted without any further delay.	Social Security
657	Complainant not allowed to apply for housing as she was a property owner.	The Department should immediately stop their practice of not accepting applications from homeowners and instead accept the application and put them to HAC for a decision.	Housing
680	Delay in allocating the complainant a room at the Devil's Tower Road Hostel.	The criteria for eligibility to a room in the hostels should be publicised; application forms should be readily available with headings in both English and Arabic; the waiting list should be available to the general public	Social Security
686	Refusing to allow the Complainant, her partner and her son to reside at the flat of her partner's parents on the ground that this would create an overcrowding situation	The Complainant, her son and her partner be allowed to regularise their right to reside in the flat belonging to her partner's parents, since HAC's decision not to so allow appeared to be *ultra vires*.	Housing
700	Refusing to update the complainant's application to reflect her current address.	The circumstances of the cancellation of the complainant's application should be reviewed.	Housing
711	Failure to amend the Complainant's PAYE Allowance Certificate when required to do so.	The tax return forms should warn the tax payer that any change in their circumstances should be reported in writing to the Department and that they should not rely on the Department to extract the information from their tax return.	Income Tax

GOOD ADMINISTRATION

This year, instead of including a chapter highlighting good performance, I have opted to include '*Principles of Good Administration*'.

These Principles have been compiled by Ms Ann Abraham, Parliamentary and Health Service Ombudsman and are reproduced here with her permission. I would like to take this opportunity to thank her for her kind gesture.

I believe that the following statements are applicable in Gibraltar and we shall be contacting all entities within jurisdiction to explain the Principles and to ensure that they are applied as widely as possible. This will form part of our next outreach programme which will be aimed specifically at organisations within my jurisdiction.

The following are broad statements of what we believe bodies within our jurisdiction should be doing to deliver good administration and good customer service. Failure to observe a Principle will not automatically constitute maladministration. We will apply a test of reasonableness, not a test of perfection.

Good administration by public bodies means:

1. Getting it Right

Acting correctly in accordance with the law, statutory powers and obligations, organisational policy and guidance (published or internal) and any other rules and regulations.

Acting within the boundaries of established good practice.

Providing effective services through appropriately trained, competent staff.

Taking decisions that are reasonable based on all relevant considerations.

2. Being Customer Focused

Providing services that meet customer needs and any published service standards.

Dealing with people helpfully, promptly and sensitively, having regard to their individual circumstances.

Responding to customer needs flexibly including, where appropriate, in a joined-up way with other providers.

3. Being Open and Accountable

Being open and clear about policies, procedures and decisions, and ensuring that information and any advice provided is accessible, accurate and complete.

Handling information properly and appropriately.

Keeping proper and appropriate records.

Taking corporate responsibility for official actions.

4. Acting Fairly and Proportionately

Treating people impartially, with respect and courtesy; without bias, discrimination or prejudice; ensuring no conflict of interest.

Dealing with people and issues objectively and consistently.

Ensuring that decisions and actions are proportionate to the circumstances and individuals concerned.

5. Putting Things Right

Putting mistakes right quickly and taking action to correct policies and procedures which are found to be ineffective, unworkable or unfair.

Providing clear and timely information on how and when to appeal or complain.

Operating an effective complaints procedure, which includes providing appropriate redress.

6. Seeking continuous improvement

Keeping policies and procedures under regular review to ensure their effectiveness.

Welcoming feedback and using it to improve services and performance.

Ensuring that lessons learned from complaints contribute to providing better services.

4
Conferences and Meetings

"Working Together to Promote Good Administration and Defend Citizens' Rights in the EU"

CONFERENCES AND MEETINGS

PUBLIC SECTOR OMBUDSMAN MEETINGS

I continue to attend Public Sector Ombudsman meetings. We form part of this informal group of public sector ombudsmen that meet three times a year. The group is composed of the United Kingdom Parliamentary and Health Service Ombudsman, the Irish and Maltese Ombudsmen, the three Public Sector Ombudsmen for England, the Ombudsmen for Wales, Scotland, Northern Ireland, the Housing Ombudsman and the Gibraltar Ombudsman. Of late, the Ombudsman for Bermuda had indicated that she might wish to join the group.

The aim of the group is to discuss matters of common interest on an informal basis. A popular item in our agenda is the office update that each Ombudsman provides. This has proved to be a very well received item in our meetings and useful information is always obtained from the experiences of others.

The meetings rotate between the different offices and are hosted by the Ombudsman of the jurisdiction. Gibraltar hosted the meeting in October 2004. We hope to host a meeting in early 2007.

This year I attended two of these meetings, one in London and one in Northern Ireland. Unfortunately, I could not attend the meeting hosted by the Welsh Ombudsman.

The London meeting was hosted by the Parliamentary and Health Service Ombudsman. During the meeting there was a presentation by Professor Hazel Genn on Tribunals for Diverse Users (and its implications for the work of the Ombudsman). Hazel Genn is Professor of Socio-Legal Studies in the Faculty of Laws at University College, London.

The October 2006 meeting was hosted by the Northern Ireland Ombudsman in the outskirts of Londonderry. The guest speaker was the Honourable Sir Brian Kerr, Lord Chief Justice for Northern Ireland. He illustrated various aspects of the Human Rights Act by way of actual decisions that he had taken when sitting in the Court of Appeal.

It is my firm intention, especially with the advent of our new constitution, to highlight cases where a person's Human Rights are engaged.

INTERNATIONAL OMBUDSMAN INSTITUTE

I also attended an International Ombudsman Institute meeting (European Region) held in Vienna. We are voting members of this organisation.

The meeting was opened by Professor Dr Heinz Fischer, Federal President of the Republic of Austria. He was followed by addresses from Professor Dr Andreas Khol, President of the National Council, William Angrick, President of the IOI and Dr Peter Kostelka , Vice-President of the IOI.

The main topics in the meeting's agenda were:

The Competence of European Ombudspersons–Description and Analysis of the Status Quo
Ombudspersons and Jurisdiction
The Implementation of Human Rights in Europe
The Implementation of Human Rights in Europe and the Role of the Ombudsman
The General Assembly of the IOI-European Region.

The General Assembly took place during the afternoon session. Suggestions for the future development of the International Ombudsman Institute were put forward and a report of the activities of the Directors of the European Region was also presented.

One of the Directors retired and a vote was held where the Catalan Ombudsman, Rafael Ribo, was elected to replace the outgoing Director.

EUROPEAN OMBUDSMAN

Fifth Seminar of the Regional Ombudsmen of EU Member States

In November I attended a seminar in London co-hosted by the European Ombudsman and the Local Government Ombudsman for England.

The theme of the seminar was **"*Working Together to Promote Good Administration and Defend Citizens' Rights in the EU*"**

The conference was very well organised and the agenda was full of topics of interest. There was also a dinner at which the keynote speaker was Mr Tom Frawley, Assembly Ombudsman, Northern Ireland Commissioner for Complaints.

The seminar was opened by the co-hosts, the Local Government Ombudsman for England, Mr Tony Redmond, and the European Ombudsman, Professor Nikiforos Diamandouros.

There were then two opening speeches, the first by the First Vice-President of the Committee of the Regions of the EU, Luc Van den Brande and then by the Permanent Secretary, Department for Communities and Local Government, Peter Housden.

The topics for discussion for the Seminar were:

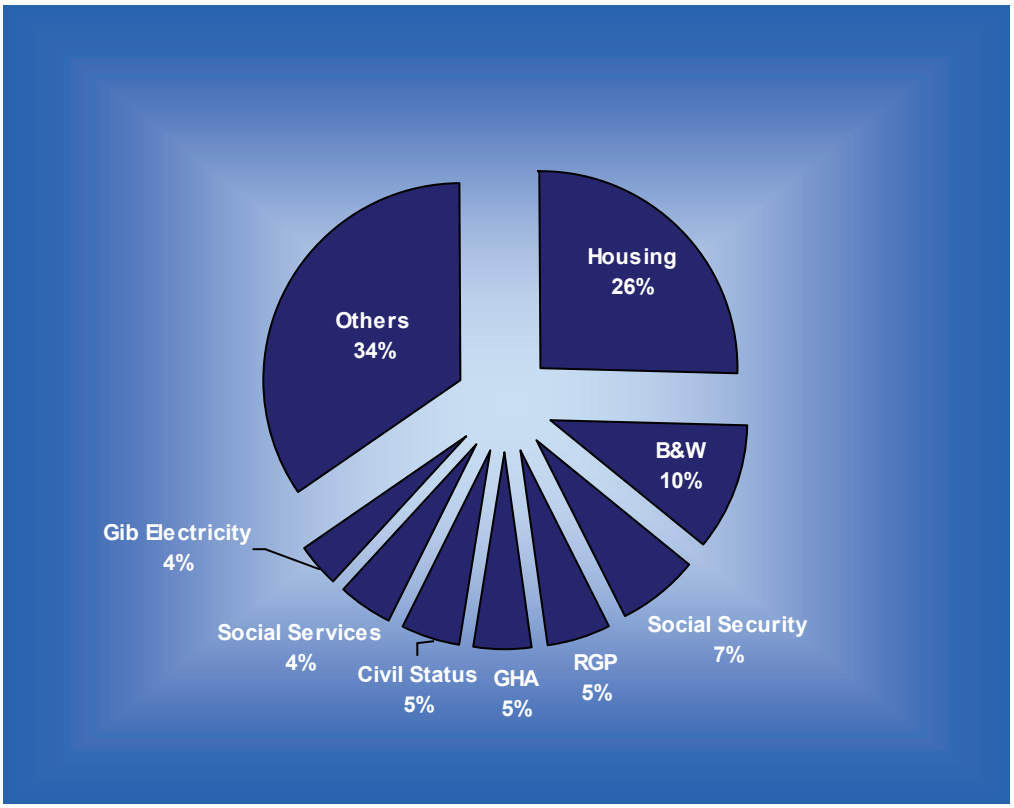
Session 1: Implementation of EU law in the Member States
Session 2: The proactive work of ombudsmen: promoting good administration
Session 3: The reactive work of Ombudsmen: complaints handling
Session 4: Moving forward together

During the third Session there was a very powerful presentation, *Upholding children's rights*, by Mr Roger Morgan, Children's Right s Director.

COMPLAINTS *(PERCENTAGES)*

This year the two departments composing the Ministry for Housing, i.e. the Housing Department and the Buildings and Works Department have again attracted the most complaints with 36% of the complaints received, however one must note that there has been a significant reduction of complaints as compared to last years figures (49%) There was also a significant number of complaints against the Department of Social Security with 7% (one percent less than previous years)

Table 8 - Complaints received by Government Departments/Agencies/Others in 2006



Other departments followed closely in numbers of complaints received. These were the Royal Gibraltar Police, the Gibraltar Health Authority and the Civil Status and Registration Office with 5% each and the and the Social Services Agency and the Gibraltar Electricity Authority with 4% of the complaints. This year both the Social Services Agency and the Gibraltar Electricity Department have received more complaints than what they would normally attract in previous years and hence their first-time inclusion in the table.

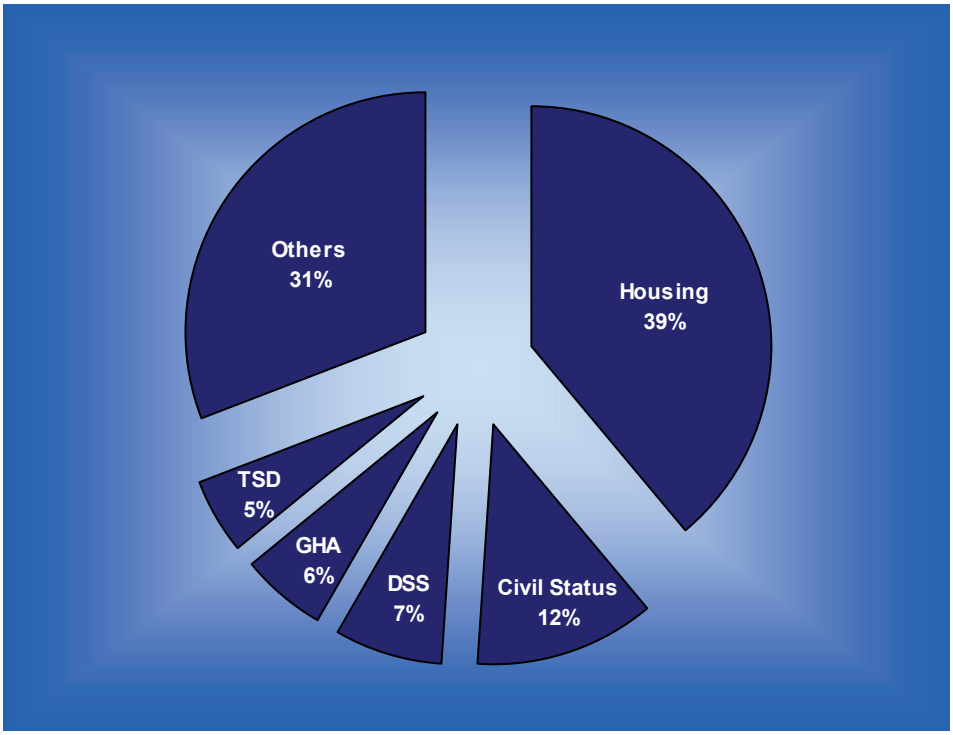
Table 9 DEPARTMENT	2005	2006
HOUSING DEPARTMENT	81 (38%)	69 (35%)
CIVIL STATUS & REG OFFICE	18 (8%)	22 (12%)
SOCIALL SECURITY	18 (8%)	13 (7%)
GIBRALTAR HEALTH AUTH	17 (8%)	10 (6%)

STATISTICS 2006

ENQUIRIES *(PERCENTAGES)*

This year there were 178 enquiries compared to 213 from last year.

Table 10-Enquiries received by Government Departments/Agencies/Others in 2006



After analysing all the enquiries received it is interesting to note that the same departments as last year are involved again in relation to members of the public making the most enquiries about. These include the Housing Department, the Civil Status & Registration Office and the Department of Social Security amongst others. It seems that most of the enquiries we receive in our office are due to the fact that in the above-mentioned government departments, which undoubtedly share a high volume of customer contact in their respective 'counters' compared to other government departments, there are limited resources of readily information available to the public and hence sometimes they are left somewhat unsure about applications, procedures, steps to take, etc and end up at to our office for help or information. On the other hand one must also note the fact that it is not always an easy task being behind a counter with a queue of persons all waiting to be attended to, whilst trying to convey specific information to a particular member of the public; this sometimes leads to unclear or rather confusing information and hence members of the public enquiring at our office for advice on what steps to take, which route to embark upon or wanting to know what their available options are. Sometimes they are unsure about what they have been informed and come to our office to enquire/ confirm that what they have been told by the department is correct i.e. that the department is adhering to government policy. A possible way forward would be for departments to look at ways on how to make information more ready available to members of the public and also on how to improve communication between both parties. The leaflets published by the Housing Department is a prime example of good informative procedure. The Government website is also another good source of information for members of the public.

STATISTICS 2006

6
Personal Perspective

I spent a week with the London Office of the Local Government Ombudsman where I shadowed Investigating Officers meeting with Local Authorities...

PERSONAL PERSPECTIVE

SENIOR INVESTIGATING OFFICER

I joined the Office of the Ombudsman as Senior Investigating Officer in October 2006. I had previously been in practice as a Barrister-at-Law in Gibraltar for over 24 years. I therefore came to my new occupation with extensive legal and general experience.

The post of Senior Investigating Officer arose as a result of a restructure of the Ombudsman's Office which occurred in July 2005. The Ombudsman's view was that the structure should change and that one of the previous two posts of Investigating Officer be replaced by the Post of Senior Investigating Officer. The post was to be held by a legally qualified person preferably a member of the Gibraltar Bar, who would report directly to the Ombudsman and play a significant role in assisting the Ombudsman in fulfilling his statutory requirements. Additionally, the Senior Investigating Officer is also the office manager responsible for the smooth running of the office including time management and leave.

The current office structure is as follows:

1. The Ombudsman
2. The Senior Investigating Officer
3. The Investigating Officer
4. The Public Relations Officer and Personal Assistant to the Ombudsman, and
5. The Information Controller and Case Officer.

Additionally we are most ably assisted by a receptionist who although not directly a member of our staff is with us for a period of time as a trainee under the Government of Gibraltar Vocational Training Scheme.

After having worked at the Office of the Ombudsman for over 4 months, the following is my impression of the Office's ethos and positive development fostered by the Ombudsman and contributed to by all:

There is constant striving by the Ombudsman and all the members of staff with a view to providing members of the public who seek our assistance the best possible service.

Additionally, the Enquiry, Complaint, Reporting and Annual Reporting systems are in a continuous state of review and positive development with a view to providing both, the public as well as the relevant government departments and other entities subject to our jurisdiction, the best possible results.

At the most practical of levels, as a result of the above, the following is what a person coming to our Offices can expect:

PERSONAL PERSPECTIVE

1. An extremely user friendly, caring and socially orientated office which is open to the public, mornings and through lunch time into the afternoon thereby affording any person who wishes to see us full flexibility as to when they can visit.

2. A receptionist who answers telephone calls with the most encouraging greeting of "Good morning, Office of the Ombudsman, how may I help you."

3. Front line staff who immediately attend to persons and ascertain their enquiry or complaint.

4. Senior staff including myself who see persons there and then or will arrange an appointment for them as soon as possible and usually by no later than the following day.

5. An Ombudsman who has a very human touch and is willing and available to see and give assistance to all persons who come to our Offices seeking his help in or outside office hours.

As for myself, I have to date had a very busy four months in which I have dealt with a large number of persons, enquiries and complaints, as well as assisting the Ombudsman throughout. I can confirm that I am really enjoying working as part of a team with the Ombudsman and the other members of staff.

INVESTIGATING OFFICER

On Attachment in London

As a new recruit to the Office of the Ombudsman it was important to familiarise myself with the Ombudsman's work in other jurisdictions, I was especially keen to see the outreach work in the United Kingdom.

I spent a week with the London Office of the Local Government Ombudsman where I shadowed Investigating Officers meeting with Local Authorities, attended meetings with Local Authority Link Officers on "Good Administration" and spent a few days with their communications team looking at outreach material.

Fortunately I had already spent six months working in the Gibraltar Office of the Ombudsman as an Investigating Officer before I went to the UK, so I was able to appreciate some of the differences. The striking difference was the jurisdiction covered by UK Ombudsman and that of our Ombudsman given that we cover areas of jurisdiction that overlap both the Local Government Ombudsman and the Parliamentary Ombudsman. Another difference was the settlement of complaints supported by financial compensation by the Local Authority. Apart from the sheer volume of complaints, some 18,000 complaints against our 500 odd, the principals of "Good Administration" were the same.

It was interesting to note that out of all the complaints received, the percentage that actually were complaints for the Ombudsman as opposed to being outside the Ombudsman's jurisdiction or premature (Relevant Avenues Not Exhausted), were the same in the UK as they were in Gibraltar, 40%.

The London Office arranged training sessions for Link Officers of Local Authorities on "Good Administration". I was able to attend one of these sessions and again noticed how similar some of the issues in government departments in the UK were with departments in Gibraltar; timely response to complaints, obtaining the information required by the complainant, dealing with vexatious complainants. However, there were some striking differences apart from just the weather (it was freezing in March). For example, in the UK all government authorities have a clearly published complaints procedure, which is staffed by specially trained personnel, something we are keen to develop in Gibraltar.

The Communications Department had a wealth of material on communicating the work of the Ombudsman. Although they very rarely arranged presentations directly to the public, they made this information available to different organisation to create presentations themselves. In fact I noticed that in comparison there was very little direct contact with the public in general, Investigating Officers rarely meet the complainants, there is no "drop in" type of facility, phone calls are controlled by a call centre and letters are centralised before being forwarded onto the correct section within the vast Ombudsman organisation. Thankfully in Gibraltar we are small enough to maintain a more personal service.

PERSONAL PERSPECTIVE

The Public Services Ombudsman, Tony Redmond, has an obvious fondness for Gibraltar, which I am sure has been inspired by our Ombudsman Mario Hook. Human nature makes us compare and compete, but there is a distinct professionalism in Ombudsmen, one that I first thought was unique to Mario, but now I see it is amongst them all, their professionalism holds the Office of Ombudsman in higher state than any individual holding that post.

7
Review of 2006

Table 11

No	Nature of complaint	Recommendation	Dept
716	Denial of her unemployment benefit which she believed she was entitled to.	All written communications made to the Department should be afforded the courtesy of a written acknowledgement and reply.	Social Security
719	Reducing the rent relief granted to a divorced mother of two.	The Housing Department should give serious consideration to amending and updating the Rent Relief Scheme to include divorced couples with children in the married couples category	Housing
722	not placing significant weight to the Paediatric Consultant opinion when categorising her family for housing on medical grounds	Clear and unambiguous criteria should be made public so that those seeking categorisation on medical grounds would know the committee's requirements. See update for MAC's response to these recommendations	Housing
723	Failure to assign him to the correct waiting list	To avoid an administrative anomaly the complainant should be placed on the 2RKB list.	Housing
724	Failure to receive a reply in respect of requested information about the length of time the Complainants were expected to wait for an allocation	Write to all applicants on the Medical A list explaining the reasons for the new Medical A+ List and the effect on allocations from the Medical A List and they disclose information requested by applicants in regard to their position and progress on the Medical Lists.	Housing
725	Refusal to accept his application for a room in one of the Gibraltar Government hostels.	The Hostels Administration should write to all applicants close to their anniversary date, reminding them that their application was about to expire and informing them that they should submit a new application. The reminder letter should be sent by registered mail to ensure receipt by the applicant, and the 'expiry after one year' warning printed in the application form should also appear in Arabic.	Social Security
736	Failure to update the Complainant's housing application.	The Complainant's application for a 2RKB to be backdated to 2002.	Housing

STATISTICS 2006

REVIEW OF 2006

AQUAGIB

I have already in past Annual reports made comment on the good administrative procedures that this entity has when dealing with complaints. This is once more reflected in that this year we only recorded one complaint against the company.

The complaint was dealt with on an informal manner and the response from them was quick and substantive; there was an offer of assistance to the complainant to remedy the grievance to the satisfaction of the Ombudsman. For some unidentified reason the water meters had been wrongly connected and the complainant was paying the water bills of her neighbour and vice versa. It so happened that the amount paid by the complainant was smaller than her actual consumption which was registered in the meter ascribed to her neighbour. The fact remained that the complainant was responsible for the payment of actual consumption. Furthermore it appeared that she had never had any problems with the water supply and the wrong connection of the meters could only be but a genuine mistake.

AquaGib explained the position in full and offered a repayment schedule over a period of time which the complainant could take advantage of to ease the inconvenience.

In the circumstances, it was decided not to sustain the complaint and it was recorded as 'Resolved Through Informal Action - Not Sustained'.

ATTORNEY GENERAL

It is not often that we receive complaints against the Attorney General. On this occasion, when we presented the complaint, there was an immediate positive reaction and the pending information was promptly provided together with a comprehensive reply.

The complainants were aggrieved because the Attorney General's Chambers had failed to reply to their solicitors in respect of a letter of claim dated 7th April 2006 and subsequent reminders. The complainants felt that they were being taken for granted, made to incur legal costs and the delay was adding to their anguish.

The Attorney General promptly replied with a comprehensive explanation and assured the Ombudsman that a reply to the complainant's solicitors would follow shortly. The complainants greatly appreciated the assurance given.

The case was recorded as 'Settled Informally'.

The manner in which the Attorney General dealt with this complaint will be used as a a point of comparison when considering the manner in which other entities deal with their complaints.

General Comment

It is important to note that whilst complaints against any of the entities within the Ombudsman jurisdiction will always arise, the important thing when dealing with the complaint is to reply within a reasonable time frame, to provide the information being requested (where possible) and to offer an explanation as to the actions being complained about and where appropriate provide redress to the complainant.

BUILDINGS & WORKS DEPARTMENT

The Buildings & Works Department continues to deal with complaints with a positive attitude. Over the past two years, there has been a remarkable improvement in the performance of this department in respect of complaints. Last year (2005) there was a sizeable drop in complaints when they recorded a total of 49 complaints as against 102 the previous year (2004). Again this year there has been a drop in complaints, albeit much smaller; there have been a total of 37 Complaints.

Most of the complaints received have been settled on an informal basis and of the eleven reports written only one has been sustained.

I also have to report that we continue to maintain a very healthy working relationship with this department. When complaints are made to us they react in a prompt manner and have endeavoured to assist as much as they can to address the grievance.

Whilst the foregoing appears to paint a very positive picture for this department, I wish to raise an early warning that there might be unfavourable clouds looming in the horizon. I say this because, whilst this department is doing a commendable public relations exercise by attending to complaints and enquiries from tenants and providing possible start dates or reasons for the failure to start a certain repair work, the actual output of the department has not increased and this may lead to complaints of unreasonable delays that will not be as easy to be addressed without increased output with the consequent reduction in pending jobs.

CIVIL STATUS & REGISTRATION OFFICE

Applications for exemption of immigration control

In last year's report I made the following comment in respect of this department:

> ***EXEMPTION FROM IMMIGRATION CONTROL***
>
> *We continue to receive complaints, mainly from Moroccan nationals who have been living and working in Gibraltar for periods in excess of twenty years, in respect of the long delays and uncertainty that they experience when they lodge an application for exemption from immigration restrictions under section 12(2) of the Immigration Control Ordinance, which if successful, will then allow them to apply for naturalisation.*
>
> *These applications usually end up embroiled in a quagmire of administrative and policy issues that compound to end up with the applicants facing enormous delays before their applications are considered. Lately there have been moves to improve the system and I am informed that applications are being dealt with more expeditiously. However, I understand that there is still quite a considerable backlog and further delays are unacceptable.*

We were recently informed that there have been improvements made to fast track those considered to be certain approvals. Regrettably, we were also informed that consideration of applications beyond the year 2002 still remained static. However during the course of more recent correspondence we were subsequently informed that the process had been restarted and they were hopeful to complete the exercise by the end of 2007.

The long delays that those applicants for exemption from immigration controls (mainly Moroccans), are being subjected to is indeed untenable and a sad indictment of whoever is responsible for this state of affairs. As a community, Gibraltarians well know what it is to fight for and demand our rights, yet whilst so doing, we have in our midst a small community of families whom our authorities are subjecting to administrative delays that we would all certainly find unacceptable.

Requirement for knowledge of the English language

We have received many representations from Moroccans with regard to the requirement for knowledge of the English language in respect of their applications for exemption from immigration control. In the main the complainants state that they have lived (the vast majority have been here for periods of between twenty and thirty five yeas), worked and raised a family here in Gibraltar without any real need for knowledge of the English language given that most people speak Spanish, yet now they are required to undergo an English speaking assessment for the purposes of their applications.

It is important to highlight that the language assessment is a statutory requirement and as such not one that can be foregone by the authorities. Additionally, a level of understanding and ability to speak the official language only serves to further assist the applicant in his integration into the local community.

The requirements are tested on the basis that the applicant can:

- ***Make simple conversation about themselves and their family and way of life***

- ***Communicate sufficiently to deal with everyday situations such as travelling, shopping, visiting the doctor's surgery or a child's school, and conducting dealings with officials.***

We had the opportunity to conduct an investigation into one of these instances (Case No. 728-not included in this Annual Report as it had not been concluded by the end of December 2006). We felt that after gaining a very good insight as to the anxieties being experienced by Moroccans in respect of this English knowledge requirement we had to make a suggestion that might serve in some manner to alleviate this problem for some.

The suggestion, as contained in the aforementioned report is as follows:

1. *The Moroccan Community, with the assistance of the relevant authorities, should be pro-active in assisting this class of people.*

2. *At the time of writing this report, the Moroccan Workers Association informed the Ombudsman that they estimated that there were between five and ten young Gibraltarian adults of Moroccan origin studying at University.*

3. *These students could be encouraged (with adequate assistance both from the relevant authorities and the Moroccan community) to assist their elders to achieve a sufficient level of English in order to satisfy the statutory requirements by way of evening classes during their summer vacation.*

4. *The students would be supervised by a qualified teacher who would also act as a designated competent person to certify when a person attending the classes had achieved the required knowledge of the English language.*

5. *This mechanism would also assist the CSRO as they would not have a need to test applicants, but rather act on a certificate issued by the designated competent person.*

The Ombudsman expressed the hope that his suggestion would receive favourable comment and, if not adopted as suggested, that, at least, some mechanism would be put in place to assist these members of our community who had lived and contributed to the local economy for many years and had made Gibraltar their home.

Applications for registration as British Overseas Territories Citizens

We also received complaints in respect of the very heavy burden of proof imposed on those applying under Section 15/4 of the British Nationality Act 1981 for Registration as British Overseas Territories Citizens. The proof was in respect of the actual presence in Gibraltar of the child on whose behalf the application was being made (see Annexe:Case No 643).

It is our belief that as a result of this very thorough investigation lessons have been learned and applications are being scrutinised within an improved *modus operandi*.

By way of comment, the vast majority of complaints received (90%) against this department have been from members of the Moroccan community in Gibraltar.

DEPARTMENT OF SOCIAL SECURITY

Complaints against this department are varied in nature due to the fact that they deal with the wide spectrum of the provision of social security and welfare payments.

During the last year, we have received complaints in respect of the non-availability of the Medical Appeals Tribunal, matters in respect of the workers' hostels and complaints in respect of the non-approval of social benefits.

One aspect that has become apparent is that we do spend quite a considerable amount of time explaining the criteria for the various entitlements, both statutory and non-statutory, that are currently provided by this department. Perhaps, there should be a conscious effort to provide better information at the time of rejecting an application for assistance. In this context, it is important to note that out of the total number of those that sought our assistance on matters related to this department, in twenty six instances (more than 50%), applicants were aggrieved at the fact that the decisions as to entitlement had not been in their favour (the decisions had not been wrong in any event) but they came to the Ombudsman seeking to verify the correctness of the decision.

Possibly the most salient cases that we investigated this last year (see Annexe: Cases 654 & 715 (unrelated)) were that of Moroccan nationals who had been waiting for a considerable time for their cases to be assessed by the Medical Appeals Tribunal (MAT). There is little doubt that the matter of the constitution of the MAT was not an easy affair, but there can never be justifiable grounds for such a long delay. The department should have actively considered the consequences of the delay on those awaiting for the MAT to be constituted.

The management of the Workers Hostels at Devils' Tower Road and Buena Vista Barracks also attracted complaints. These hostels are mainly used by Moroccan nationals and there were complaints in relation to the alleged 'jumping of queues' in relation to admissions from the waiting lists and the lack of transparency in the keeping of these lists (see Annexe Cases 680, 725 and D1682)

ELECTRICITY AUTHORITY

The Gibraltar Electricity Authority embarked in what can only be classed as the most disastrous debt collection exercise ever. They instilled the confusion and the fear of electricity being cut off on unsuspecting consumers

There were numerous complainants coming to our offices on this same matter, so I decided to conduct an investigation into one of these complaints to exemplify the grievance being caused. Thus I wrote to the Chief Executive of the Authority on the following terms:

The Complainants have lodged a complaint that:

- ***He has received a letter in respect of electricity arrears that is confusing and not very explicit. It mentions current bills as outstanding when this is not so, and it is only when he made enquiries that he was informed that the arrears being chased were for his old address and date back to 10 years ago. He believes he should have been informed of these arrears sooner as he has thrown away bills and receipts dating back to that time.***

The complainants' daughter explained that she had phoned the Electricity Authority on a couple of occasions and has pointed out that these arrears are over six years old and should therefore be statute barred under current legislation [Section 4(1) of the Limitation Ordinance], more importantly on moral grounds it is principally wrong to chase these arrears knowing that it is near impossible that the consumer would have kept receipts for this long.

The Complainant is sure that these bills have been paid and he would like some peace of mind that their electricity connection will not be cut off until this is sorted out.

The Complainant and his wife are senior citizens who are very worried and concerned about this affair. They are due to go on holiday and are extremely worried that they will return to find their electricity cut off.

The Chief Executive of the Authority assured the Ombudsman, by way of telephone conversation, that no one's electricity supply would be cut off by the date stated in the original letter, which, as an initial exercise, had been sent to all addresses which showed a debt in their records.

The general grievance and confusion arose out of fact that the same type of letter (using the same text) had been sent to both, those account holders having outstanding current bills and to those having historic arrears.

The Ombudsman was further informed by way of letter that before any consumer was cut-off each case would be considered individually. A final warning letter containing details of the arrears would be delivered to the consumer specifying date and time for cut-off giving no less than 5 days notice. Selection for cut-offs would be based on consumers having the highest amounts in debt in descending order – (the Chief Executive made available a copy of their Disconnection Policy).

We were also assured that the Authority would reply to all consumers who had written to them. The Chief Executive also asked us to reassure any person that attended our office that no one would be cut-off without the Authority first making contact with the consumer and establishing the facts of each individual case.

The information provided was passed onto all those who had originally complained.

To date, there have been no further complaints brought to our attention. There have been, however, complaints to the effect that consumers who have entered into repayment agreements with the Authority, have later considered that the monthly repayments were too large given their financial circumstances. All these instances have been referred to the Citizens Advice Bureau who have made an agreement with the Authority to assess these cases.

THE GIBRALTAR HEALTH AUTHORITY

Since the introduction of the Gibraltar Health Authority's (GHA) internal complaints procedure and the Gibraltar Health Authority (Complaints Review Panel) Ordinance, the Ombudsman is largely outside the complaints process of this entity. However, people still come to our offices seeking advice or wishing to lodge a complaint. Needless to say we offer assistance and wherever appropriate we accept the complaint for subsequent investigation although largely we advice of the GHA's complaints mechanism.

I meet a few times a year with the Chief Executive of the GHA to discuss particular complaints and the state/level of complaints in general. In anticipation of this Annual Report I also sought information from him.

The following summary serves to illustrate the current state of complaints:

1. Verbal complaints remain at the same level as previous year

2. There has been a 20% reduction in Formal Complaints in 2006 when compared to 2005.

3. There were a total of four complaints referred to the Independent Review Panel in 2005, this compares favourably with the year 2006 when there was only one referral to the Panel.

4. Every Complainant is given the opportunity to discuss the report in person with the Chief Executive and the Complaint's Officer

Where complaints identify poor clinical practice the matter is brought up with the practitioner involved.

Action plans are developed out of the complaints, shared with the complainant and these action plans are assigned to the responsible director and followed at the monthly Executive Committee.

The process has been continuously improved

The Role of the Complaint's Officer has been expanded to include the provision of advice and assistance in dealing with problems before they become complaints

Last year I included a comment in my Annual Report in respect of the reports produced by the Independent Review Panels. I stated that the Panel's work concludes with a report on their findings. However these reports are not published and the public at large do not get to know what action, if any, GHA has taken in respect of the complaint and any resulting recommendation. I believe this is an accountability deficit. I remain of the same opinion and will be taking this matter up with the GHA at my next meeting.

GIBTELECOM

Whenever a complaint arises against Gibtelecom, this company reacts in the most positive manner and is always willing to assist both, the Ombudsman in his investigations and the complainant.

I can only but commend the good administrative procedures and attitude towards complainants of this company.

This year there was only one complaint lodged against Gibtelecom which warranted an investigation.

Case No 729 (see Annexe for full version) was in respect of a benefit that the Company offered by way of a discount on the telephone line rental, to old age pensioners who were eligible and in receipt of rent relief. The complainant claimed that she had never been informed of this benefit and wished for it to be provided retrospectively; the company declined. Gibtelecom informed the Ombudsman that this was the only discounted allowance which applied to a targeted group of people and that it did not allow for retrospective claims not applied for at the time. However, exceptionally in this case, as a gesture of goodwill and in the light of the representations made by the Ombudsman, the Company credited the complainant with six months of the benefit.

HOUSING DEPARTMENT

Going the Extra Mile

During this last year the Housing Department has made great efforts to improve their procedures in order to provide a better service to the public and as a consequence have been more successful than ever in reducing complaints. I must report that in the latter part of 2006 there has been a steady decline of complaints, culminating in December when there was only one complaint recorded. Notwithstanding this, the Department tops the ranking in the complaints list; again they have received more complaints than any other Government department.

This year they have received a total of 67 Enquiries and 94 Complaints. However, all is not gloom and doom for this beleaguered department. There appears to be a ray of hope at the other side of the dark tunnel through which this department has been travelling ever since records of complaints were first compiled by the Ombudsman.

Their record so far speaks for itself:

	Enquiries	Complaints	Out of an overall Grand Total
2000 (includes part 1999)		177	807
2001		184	678
2002		181	646
2003		214	740
2004	77	145	712
2005	81	130	625
2006	67	94	553

(NB: The "Enquiry' classification did not commence until the year 2004 – Prior to this all records were classified within the different categorisations of 'Complaints')

There is no doubt that there is a steady decline in complaints lodged against this department, especially during 2006. My analysis of this improvement is that they have improved on some aspects of their administrative procedures and now deal in a more efficient manner with their tenants and others seeking their assistance. Of course, the intervention and assistance of the Ombudsman must also be taken into account when considering the improvements in this department. Thus they appear to have staved off the more common type of complaint such as no reply to letters, one-line letters devoid of explanations or the impossibility of obtaining an appointment with them. Given that they have put in place administrative procedures to address these problems and having embarked on a route which appears to be paying dividends, I have decided to entitle this commentary on the Housing Department **'Going the Extra Mile'**. I have done so as I am now urging them to continue along this route and to continue to make improvements so as to achieve a level of service delivery commensurate with the expectations of a modern society.

In achieving what I am calling 'the extra mile', this department needs to modernise their procedures vis-à-vis providing information to the public. An example of this is the constant refusal to provide the position of applicants that have been included in the Medical and Social lists. The secrecy kept by the department as to the position of the applicants is not in keeping with reasonable and acceptable administrative procedures. In any event it leads to unnecessary complaints and distrust by the applicants.

The method of evaluating cases and criteria used by the committees (the Housing Allocation Committee, the Social Advisory Committee, the Medical Advisory Committee) must also be published as well as detailed explanations provided when refusing a categorisation that has been applied for.

Anything short of the above is not in keeping with good administrative procedures.

The Department's View

I consulted the Housing Department to obtain their views as to the reasons for the drop in complaints. The following are some of the different reasons why, according to the department, there has been a drop in complaints against them:

The construction of 800 flats comprising Waterport Terraces, Nelson's View, Cumberland Terraces and Bayview Terraces. This has obviously been conducive to the reduction of complaints. (It should be noted that the majority of these flats have been allocated to those on the Waiting List, i.e. 384 persons have being removed from the housing Waiting Lists. 124 of them from the Pre-List).

The Waterport Terraces project also involves the construction of a further 140 flats for rental and these will be geared to senior citizens. Allocation is expected to release around 130 Government owned flats.

Since taking over this office, the Minister for Housing has proactively been holding 'weekly' interviews, mostly with persons with housing concerns. These interviews are additional to those held with the Housing Manager and other senior members of staff. The department is in no doubt that this has also contributed positively in the reduction of complaints.

Towards the end of 2006, the Ministry strengthened the resources at the Allocation Section by increasing staff. This has had a positive impact on customer care together with the training undertaken in the recent past. This Unit and more particularly, its counter staff have borne the brunt of pressure from members of the public, principally due to the administration of an insufficient amount of housing stock.

Generally, staff in the Ministry for Housing have made enormous efforts to listen and help members of the public, where possible and, within the rules, to facilitate their housing services. The Ministry contends that this has also contributed positively towards reducing complaints.

Anti-Social Behaviour

Regrettably once again I have to express my concern that the much awaited Anti-Social Behaviour legislation has still not seen the light of day. Instances of anti-social behaviour appear to be on the increase and there is a need for the Housing Department to be equipped with adequate legislative resources when dealing with unruly tenants that make the life of others a misery. Recently, a young single mother came to our offices complaining that her life, and that of her young child, was being turned into hell daily due to the behaviour of her neighbours. Another complainant came to our offices complaining that his life had been turned upside down by the arrival of a tenant who had embarked on a behaviour that could only be classed as anti-social. This complainant was so aggrieved that he wanted to move to an empty flat within the same area even at the expense of having to refurbish the flat whilst leaving his flat in pristine condition, ready for occupation. Yet another complainant recently came to us with photographs showing the extent of his neighbour's anti-social behaviour.

In-House Seminar

My office organised an in-house seminar entitled 'Analysing our work and Performance', which was be held in April 2006. As envisaged a considerable amount of time was dedicated to housing matters. All those members of the department that are in some manner involved with matters that can give rise to complaints attended, including the Principal Housing Officer. Of special mention must be the kind gesture by the Minister for Housing who also attended and actively partook in the consideration of the various matters that give rise to complaints and what practical measures should be taken to reduce the level of complaints; his commitment to improvement was evident and is much appreciated.

A negative note must be that the department was invited to hold regular meetings with my office to continue to discuss means of improvement of service. I must report that to date the offer has not been taken up.

I would like to close this commentary on the Housing Department by echoing my words contained in last year's report.

> *The ultimate aim of all concerned with providing public services (including the Ombudsman) is to ensure that a high standard of service is delivered to the public, who, after all, are the ultimate paymasters and are thus entitled to demand good quality service.*

****

As with other departments, cases pertaining to the Housing Department can be found in the Annexe to this report.

PRISON BOARD OF VISITORS

It is not often that we receive complaints from prisoners held at HM Prison in Gibraltar. During the early part of this year we received one such complaint from a Spanish national being held there.

We wrote back and advised the complainant about the various complaints mechanisms available to him. We informed him of the role of the Board of Visitors (Prison Board) and that they were available and would deal with his complaint if so requested. Lastly we informed him that we would intervene if required.

In order to find our about the role of the Board of Visitors, and in order to ascertain whether they were in a position to assist this prisoner (the complainant), We requested a meeting with the Board.

The meeting provided us with useful information as to the services available to inmates of HM Prison in Gibraltar whenever a grievance arises; this information received proved to be very useful to us for future reference.

We were left with no doubt that their work provided an excellent service to those members of society who found themselves within the confines of a prison serving a custodial sentence.

Not much is published about the work of this group of dedicated volunteers. It is important, within the context of complaints mechanisms to highlight the work performed by this Board. The sense of responsibility and disposition to assist those in custody displayed by the members of the Board was a breath of fresh air and an example to be followed by others.

These volunteers give up a lot of their time to tend those less fortunate and certainly deserve a well earned recognition of their unenviable work.

THE TRAFFIC COMMISSION

We undertook quite a lengthy investigation in respect of a complaint pursuant to the non-granting of a Disabled Parking Disc. (See Annexe: Case No 628).

The problems associated with this particular complaint were that the Commission did not have the services of a medical officer to assess the application of the complainant. They therefore resorted to seeking information in the internet about her ailment. We were of the opinion that this was not best practice. They also resorted to some other means to assess the application which we also found lacking in good administrative procedures.

In the end, after the remit of the Commission was changed by statutory provision to that of an advisory body, the Minster with responsibility for traffic matters approved the granting of the Disabled Parking Disc.

We have dealt on an informal basis with other similar complaints and have in general experienced delays in obtaining replies from the Commission. We wrote to the Commission informing them that the complainants were aggrieved with the Traffic Commission for the time taken to process their application for Disabled Parking Disc. They were further aggrieved in regard to the lack of communication from the Traffic Commission in keeping them updated with their application.

We noted that the Commission had decided to award the complainants' discs as requested and further noted that from the time of the application to the time of the award there had been fundamental changes to the procedure by which Disabled Parking Discs were allocated and this had a direct effect on the complainant's applications and had contributed to the delays. However, the Ombudsman was concerned with the lack of information provided to the complainants during the change of procedure, as it had been necessary for the Ombudsman to express his concern to the Commission and to the Ministry on several occasions. For this reason it was decided to close this case categorised as: 'Resolved Through Informal Action – Sustained'

General Comment

Delay in replying to those seeking information from whatever entity is always a matter for concern and this office intends to ensure that we, and more importantly the public, obtain prompt written replies to enquiries.

QUOTES

I have decided to list them because they are all what could be termed as '*words of wisdom*', which readers may find of value.

"We cannot direct the wind, but we can adjust the sails." - (*Bertha Calloway)*

"The shell must break before the bird can fly." – (*Tennyson)*

"The only ones among you who will be really happy are those who will have sought and found how to serve." -- (*Albert Schweitzer)*

"The only man who behaved sensibly was my tailor; he took my measurement anew every time he saw me, while all the rest went on with their old measurements and expected them to fit me." *(George Bernard Shaw)*

'The job of a citizen is to keep his mouth open'. (*Gunther Grass*)

'Without leaps of imagination, or dreaming, we lose the excitement of possibilities. Dreaming, after all, is a form of planning'. (*Gloria Steinem*)

'It is not the strongest of the species that survives, nor the most intelligent, but the one most responsive to change'. (*Charles Darwin*)

'The important thing is never to stop questioning'. (*Albert Einstein*)

'Character is doing the right thing when no one is watching'. (*J C Watt*)

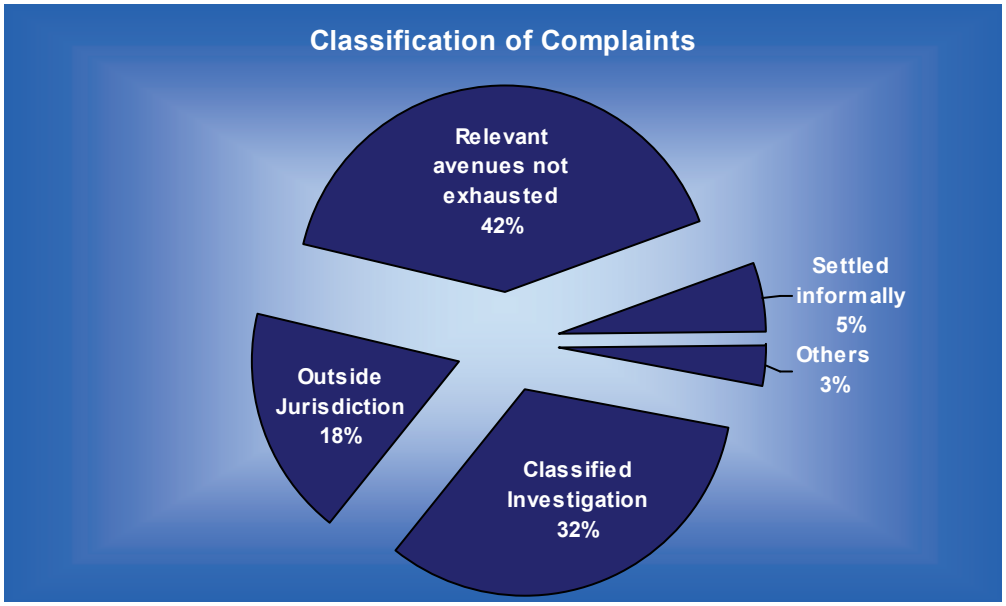
'What we see depends mainly on what we look for'. (*John Lubbock*)

'A small drop of ink makes thousands, perhaps millions'. … think. (*Lord Byron)*

PROCESSING DATA

There were 380 complaints classified this year out of which, 69 were classified as outside jurisdiction, hence they could not be investigated by the Ombudsman. 156 were closed as 'Relevant Avenues Not Exhausted'. In such cases we give advice to the Complainant as to how to proceed with his complaint and request that they keep us informed of progress so that we may further assist if the need arises.

TABLE 12-CLASSIFICATION OF COMPLETED COMPLAINTS	2006
Outside Jurisdiction	69
Others (Withdrawn, trivial, insufficient personal interest)	12
Relevant avenues not exhausted	156
Settled Informally	20
Classified Investigation	123
TOTAL:	380



This year we have continued to improve the methods on how we process our data. We have drafted in is the classification 'settled informally' which are complaints that have been looked into without the need of an investigation and furthermore, when finalising them, we have decided that they are neither 'sustained' nor 'not sustained'; this is contrary to the 'classified investigations' that end up thoroughly investigated and classified as sustained/not sustained by way of a verbal communication, a letter or a report to the Complainant. It is also true to say that this new category (classified investigation) consists of all the complaints that were previously known as complaints 'investigated or resolved through informal action' added with those that were known as 'formal investigations.'

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RELEVANT AVENUES NOT EXHAUSTED

156 complaints were closed as relevant avenues not exhausted out of which 46 were in respect of the Housing Department. Nearly half of the complaints that we receive against the Housing Department fall into this category. One thing that first comes to mind is that most of the persons who complain against this department are desperate for housing (not having a shelter is a major setback in life) and after having experienced a negative feedback from the Housing Department they tend to come with their grievance to the Office of the Ombudsman without having exhausted all their avenues. In many occasions Complainants also loose their faith with the Housing Department and any ideas of writing to the Department are automatically blown away from their minds and when they come to our office they are advised to put their grievance in writing to the department before we further look into the matter; hence the complaint being classified as 'Relevant Avenues not exhausted'. Obviously things would improve if there was an internal complaints handling procedure in place at the department where members of the public could put forward their complaints. With this system in place, it would ensure that any such grievance a complainant might have, would be thoroughly considered and would also act directly as a filter for all those complaints that end up in the Office of the Ombudsman due to possible oversights by the department.

82% of the complaints that were made against the Gibraltar Electricity Authority were relevant avenues not exhausted (RANE). The main reason for so many of them being classified as RANE was due to the standard letter of electricity disconnection that the Electricity Authority sent to the affected complainants, who obviously feared having their electricity disconnected and had no other alternative than to hastily visit our office for assistance. Still, most of them were told to resolve their grievance first with the Authority and if not satisfied by their answer to return to our office. Although relevant avenues were not exhausted on the above mentioned complaints they still had to be closely monitored given the proximity of their date of disconnection.

We received 12 complaints against the Gibraltar Health Authority (GHA) where the Complainants had not exhausted all their avenues. Although there is Complaints Procedure in place at the GHA members of the public still come to our office with their grievance before approaching the GHA. Of course, we always offer assistance.

The Civil Status and Registration Office (CSRO) is a department where complaints are slightly on the increase. This year 55% of the complaints have been categorised as Relevant Avenues not Exhausted. This high percentage stems from the fact that many members of the Moroccan community have come to us in respect of the statutory requirement for knowledge of the English language in respect of applications for exemption of immigration control. We provide assistance and advise to them to make written representations to the CSRO.

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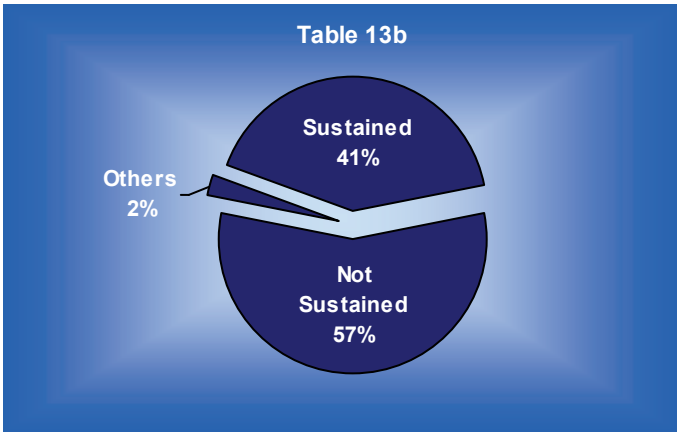
The two main reasons why complaints that were 'resolved through informal action' and those that were known previously as 'formal investigations' have been amalgamated into one is firstly because it is now easier with this system to classify them further within their own category (see 'classified investigations' table below) and secondly because it allows more flexibility within our own office in the sense that investigating officers could now end an investigation by verbal communication or by letter without the need of writing a report in cases where such report is not really warranted. The Ombudsman was of the opinion that by reducing what was formerly known before as 'formal investigations' it would significantly enhance the quality of report writing when one was actually carried out. On the other hand the Ombudsman also wanted to give the importance it deserved to what was formerly known before as 'cases resolved through informal action' as it entailed substantial work in the office that afterwards was not truly reflected in the annual report. Many of these complaints are now investigated more thoroughly and even though a report is not actually written, a quality summary is provided and classified under 'classified investigation' as sustained/not sustained and finalised by way of letter. It is a fact that the amalgamation of these two classifications into one has proved beneficial both for the completeness of complaints in our office and also for the clarity of our statistical information in our annual report.

'CLASSIFIED INVESTIGATIONS'

TABLE 13	SUSTAINED	NOT SUSTAINED	OTHERS	TOTAL
VERBAL	4	16	-	20
LETTER	23	22	-	45
REPORT	24	31	3	58
	51	**69**	**3**	**123**



This year there have been 123 complaints which have been categorized as 'classified investigation'. 20 of them have been closed by way of verbal communication whilst 45 of them have been closed by way of letter to Complainant. 58 of them have warranted a report. Out of these 123 complaints, 69 have been not sustained whilst 51 have been sustained. It has been calculated that the average number of months for a 'classified investigation' to be completed is 3 months and 27 days.

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NATURE OF CLASSSIFIED INVESTIGATIONS—TABLE 14

NATURE OF COMPLAINT	2006
LACK OF RESPONSE TO COMPLAINANT (no reply to letter, etc)	29
DELAY	29
UNFAIR TREATMENT (Disparity, unreasonable, discriminatory)	20
FAILURE TO ACCEPT/GRANT REQUEST (application, letter, refund, permit)	14
INEFFECTIVE CONTROL /NO ACTION TAKEN	11
NEGLIGENCE, OMMISSION (Lack of proper care & attention)	10
UNSATISFACTORY REPLY/OUTCOME	4
ERROR, WRONG ADVICE/DECISION	3
STAFF ATTITUDE (Rudeness, unhelpfulness, etc)	2
FAULTY PROCEDURES (Failure to follow procedure, wrong info)	1
TOTAL	123

The two most common nature of complaints that the office receive are over the lack of response to Complainants (i.e. no reply to letters) and the general delay experienced by them over different matters such as having works carried out, having applications processed, etc.

Complainants also come to the office rather aggrieved at the fact that they have allegedly been unfairly treated. Saying this, one must note that nearly all (17) of the complaints that came to the office in respect to *unfair treatment* have not been sustained. This could be either that indeed some of them were not considered by the Ombudsman to be justified due to the fact that the department was following the proper procedure/policy, or indeed there could have been an element of unfair treatment but due to lack of substantial evidence by the Complainant the Ombudsman had no other alternative than not to sustain the complaint on the basis that there was no evidence on which to initiate an investigation. Other complaints such as the department's failure to accept requests for applications, grants, etc, lack of proper care and attention to the Complainant by the department were also a quite common nature of complaint. We must also highlight the fact that eleven out of the fourteen complaints where an authority allegedly failed to accept/grant some sort of request were not sustained. Perhaps if better information was provided at the time of the refusal, then these would-be Complainants would not have found the need to come to our offices, with the consequent result of less complaints being recorded against the individual entity. As an example, there was a complaint lodged against the Civil Status and Registration Office where the Complainant only understood the documentary evidence required of her after the intervention of the Ombudsman.

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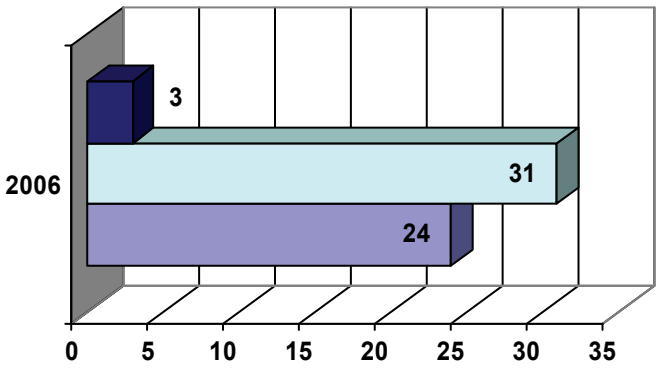
CLASSIFIED INVESTIGATIONS CLOSED BY WAY OF REPORT

Table 15



	2006
Others	3
Not Sustained	31
Sustained	24

By the end of the year 2006, 32 new cases had been earmarked for investigation with a report. Out of the 32 cases earmarked for investigation 24 have been concluded this year. There were also 34 more cases completed from the previous year. In total, *58* cases with a report were completed by the end of the year 2006. 24 cases (41%) were sustained, 31 (54%) were not sustained whilst 3 were classified as 'others'. (1 withdrawn, 1 outside jurisdiction after initial investigation and 1 without classification.)

A wide selection of entities were investigated. This includes the Housing Department which tops the list with 31 investigations closed by way of report and includes investigations such as the failure to reply to letters, delay in re-housing complainants and various issues involving rent relief. Other departments with significant numbers were the Buildings and Works Department with 9, the Department of Social Security with 8 and the Civil Status and Registration Office with 3. There were also investigations carried out on the Income Tax Office, Gibtelecom, the Employment Services and the Magistrate's Court amongst others.

Complaints closed by way of a report are the ones that normally take the most time to complete. It usually takes from 3-4 months to complete a 'classified investigation' by way of report but sometimes it can prolong to more months of investigation (normally the exchange of correspondence between both parties is what delays the investigation) and hence the average total of 5.7 months for an investigation to be completed by way of report. Recommendations were made in some of these investigations that were closed by way of report. During 2006 the Ombudsman made a total of 15 new recommendations. Out of these, 8 were accepted, 3 were not accepted and another 2 are still pending or under consideration. There were some investigations by way of report that contained more than one recommendation so there was no alternative than to introduce a new category. (partially accepted). There were 2 partially accepted.

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QUALITY OF SERVICE

The following is the statistical data and comments taken from our Complainant Satisfaction Surveys.

1. What did you expect from us before you came to our office?	
Advice	26%
Help in solving my problem	56%
Solve my problem for me	18%

2. Overall, are you satisfied with our service?	
Excellent	76%
Good	15%
Satisfactory	6%
Unsatisfactory	3%

This question also provided space for comment. The following are some of the comments:

- Every member of staff found to be very friendly, enthusiastic and professional of particular note were ……. I would like to pass my personal thanks to all three.
- …… was always helpful.
- I was more than 16 months making requests to the Housing Dept and nothing was being done. As soon as I went to the Ombudsman I was getting some help.
- I received immediate help.
- An honest, human and dignified department commanded by the Ombudsman and staff. True defenders of 'Citizens Rights' when one feels whether we have any rights at all!
- The work you have done for me is very appreciated. Although it appears the red tape of bureaucracy is somewhat thicker than ever and longer than infinite, even this office can deal with it.
- I had lost all faith in myself because of my problems. I didn't believe anyone could help me, but thanks to yourselves I now know that there's someone who does care about things that happen to people.
- The reply to our request was speedy and efficient.
- I expected advice and in exchange you have been by me helping me and my family all the step of the way for a whole year.
- Surprised and delighted by the friendly staff.
- My first visit to see the Ombudsman was excellent very quick to make an appointment no waiting and very helpful and friendly staff. Very good.
- Unsatisfactory due that I had to solve my problem from other means and I have to thank a friend to resolve my problem

3. My inquiry was responded to promptly.	
Excellent	85%
Good	6%
Satisfactory	6%
Unsatisfactory	0

4. I was treated courteously.	
Yes	97%
No	0

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This question also provided space for comment. The following are some of such comments:

- I was treated like a friend and felt very comfortable in contacting the office staff without hesitation.
- At no time during my visits to this office, did I hear a 'no' for an answer or treated in any way discourteously, on the contrary, they always had time for me with plenty of education.
- I was informed by you, that the Ombudsman does not look into labour conflict; I would like you to look into the matter.
- Always with the greatest respect and unbiased support. I couldn't be made to feel more welcome. Thank you.
- When I was told that I would be helped I honestly didn't believe it. Now I swallow my words, I don't think I could feel better if I tried.
- My enquiry was promptly responded to and treated courteously, thank you.
- As a pensioner I was treated with great respect.
- Within two weeks I had a response to my inquiry and again very pleased.

5. Were updates provided?

Yes	97%
No	3%

6. Any other comments

- The service I received throughout this matter was outstanding in all aspects. Please accept my thanks for all your help. Your prompt and close attention to my request was very much appreciated.
- Every time the Ombudsman was updated I was informed immediately.
- In general I have been pleased to have used the services of the Ombudsman, as I have been helped to achieve more points and given a bigger step on Housing waiting list. Although my problem hasn't been solved. Also staff have been excellent, especially ……. who has really showed interest in helping me with my case.
- I have very much appreciated your support upon hearing my case, as I have not always been familiar with procedures at the government agencies in Gibraltar.
- I sincerely believe that Gibraltarians should be proud, for once, of having this department, which, in my humble opinion, differs from many others in Gibraltar where the treatment and courtesy leaves much to be desired. God Bless you always and strength to carry on with your task.
- There should be more power to make the Government bodies to act immediately upon an Ombudsman report, this is after all the 3rd complaint by your office on this case and I'm sure unfortunately it won't be the last.
- I would like to thank everyone for your help. I would also advise anyone who needed help to go to your offices. Thanks to you my son can now get the education he deserves and my family can lead a normal life. I couldn't put into words the praise and gratitude I feel right now.

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- It is reassuring to know that there is a service such as yours, for the people of Gibraltar.
- Updates were provided all the steps of the way and explained perfectly.
- If I ever had another problem I would always visit your office as I have always been treated right and my problems have always been sorted out for me.
- I am ever so grateful to all your team for your invaluable help.
- I felt that with my problem that unless the Ombudsman didn't deal with the matter I would still be sorting things out with the Housing Dept.
- The Office of the Ombudsman went out of their way to help and above their call of duty. I am especially grateful to the Ombudsman he is an honest and decent man! Thank you all very much.
- It was the first time that I have used the services of the Ombudsman office and I was surprised as to how easy help is at hand. Thank you and keep up the excellent work.
- This is first time I have sought your assistance and I can only say how grateful I am for the way you provided your excellent service.
- Updates were provided though at times I needed to call as the issue was not moving in the right direction. It is most unfortunate and distressing to my elderly mother and aunt that after one year the matter is still not resolved.

STATISTICS 2006

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