Annual Report

Of

Office of the Complaints Commissioner

For the 2013-2014 Financial Year

Annual Report 2013–2014

Eighth Annual Report of the Office of the Complaints Commissioner of the Cayman Islands addressing the Fiscal Year July 2013–June 2014

Office of the Complaints Commissioner

Office of the Complaints Commissioner

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***Aim of the Office*: To investigate in a fair and independent manner complaints against government to ascertain whether injustice has been caused by improper, unreasonable, or inadequate government administrative conduct, and to ascertain the inequitable or unreasonable nature or operation of any enactment or rule of law.**

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29 June 2015

By Hand

The Honourable Julianna O'Connor-Connolly
Speaker of the Legislative Assembly
Legislative Assembly
George Town
Grand Cayman

Dear Madam Speaker,

Re: Annual Report 2013014

I am pleased to submit my Annual Report for the period of 1 July 2013 to 30 June 2014, pursuant to section 20 (1) of the Complaints Commissioner Law (2014 Revision).

Additional copies have been delivered to the Clerk of The Oversight Committee of the Office of the Complaints Commissioner, Miss LeSanneo McLaughlin.

The Chairman of our Financial Oversight Committee, Mr. Ezzard Miller has been asked to introduce the Annual Report.

Yours sincerely,

Bridgette Lazzari-von Gerhardt
Acting Complaints Commissioner

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1. Executive Summary

The fiscal year 2013-14 showed continued awareness by the community of the presence of the Office of the Complaints Commissioner (OCC), with complainants seeking redress for maladministration committed by government entities.

In June 2014 the staff of the OCC all took part in a Policy Development and Implementation Best Practice Workshop which was conducted by the Director of the Cabinet Office's Policy Coordination Unit. This was very beneficial to all.

The OCC also continues to monitor the work of the Internal Complaints Processes of 74 government entities in order to encourage better public service.

In 2013-14 we considered: 26 enquiries, received 87 complaints during the Fiscal year, completed 12 investigations of complaints brought forward from the previous year, made 55 preliminary investigations which were later referred to Internal Complaints Processes (as they had not exhausted this avenue prior to coming to the OCC), and conducted 44 full investigations with findings. The decline in enquires was attributed to the fact that almost all government entities have Internal Complaints Processes [ICPs] which is working satisfactorily, therefore many issues are now being resolved via the ICP. However, should a complainant feel that their complaint has not been handled in a fair manner by the ICP Manager, and files a complaint with the OCC in regards to the matter, the OCC will conduct an investigation to determine if the investigation by the ICP Manager was indeed conducted fairly.

There were 20 recommendations brought forward from 2012-13, along with 14 recommendations made during this fiscal year which were monitored. Two recommendations were complied with during the year, and no recommendations were withdrawn by Special Report to the Legislative Assembly as the OCC has been provided with adequate substantiation that the government entities are working towards complying with other outstanding recommendations.

We are pleased to note that local confidence in the work of the office continues to grow, and during the 2013-14 fiscal year, 70.77% of complaints received were from Caymanians and Caymanian owned companies.

Once again, we noted that George Town residents file more complaints than residents in other districts, and more complaints are filed by male complainants. Our Investigators continued to visit Cayman Brac and Little Cayman to address complaints from the sister islands to ensure that they are not overlooked.

In March 2014 the OCC concluded an Own Motion Investigation Report entitled, "Let the Whistle Blow". The Investigation was to ascertain whether there were adequate protections or protective measures for reporters of wrongdoing ("Whistleblowers") within the Cayman Islands Government. The investigation was completed in March 2014 and presented to the Legislative Assembly for tabling.

The OCC's budget for the 2013-14 year of $740,000 and as always, the OCC is prudent in our spending.

2.Commissioner's Message

Complaints Commissioner,
Ms. Nicola Williams

This is the fifth Annual Report published by the Office of the Complaints Commissioner. Despite reductions to resources and some staff changes, the 2013/14 year was an active and fruitful one for us, particularly in the areas of:

- Reports
- Training
- OCC outreach (local and international)
- OCC publications
- Staffing and interns; and
- Internal Complaints Process (ICP) set up by the OCC to assist complaints officers employed by government.

Reports – In April 2013, the OCC commenced an Own Motion Investigation in order to ascertain whether there were adequate protections or protective measures for reporters of wrongdoing ("Whistleblowers") within the Cayman Islands Government. The investigation was completed in March 2014 and presented to the Legislative Assembly for tabling.

Training – The OCC is committed to the training of all staff at least annually in order to ensure that that all are well prepared to assist the office in carrying out the mandate of the Commission. Annual training normally takes place in March of each year, but due to the fact that we were in the process of recruiting two new staff members who would not be joining the organization until March and April 2014, annual training was postponed until early in the new fiscal year. The OCC has already arranged for advanced investigative training to be conducted in August 2014, by Mr. Gareth Jones, Director of the Special Ombudsman Response Team at the Ombudsman of Ontario, Canada. This training will be covered during a period of 4 – 5 days.

Outreach: Local - I feel it is very important that everyone who resides in the Cayman Islands should be aware of who we are as an organization, and what we do. Subsequently, in November

2014 for the fourth successive year, the OCC was present at every Heritage Day throughout the Cayman Islands.

Staffing and Interns – The OCC would be nothing without its staff members who contribute greatly to the work carried out by the OCC on an annual basis. During this fiscal year 2013- 14, the OCC recruited two new staff members:

1) In March 2014 the OCC gained a new Investigator, Mr. Daniel Lee, a former member of the Royal Cayman Islands Police Service who has worked with the RCIPS for over 27 years. Daniel Lee holds a BA (Hons) Law degree from the University of Liverpool and has headed up various units within RCIPS, including the Uniform Support Group, the Training Department, the Security and Firearm Licensing Department and held the position of Critical Incident Manager.

2) In April 2014, Ms. Abbey Glasgow joined the OCC as our new Executive Assistant. Ms. Glasgow has over 16 years experience working in the financial and customer service sectors including positions within supervisor and senior capacities and has acted as Deputy Freedom of Information Manager for approximately 4 years for Cayman Airways.

Summer Interns:

The OCC has made a decision to take on two summer interns for July and August 2014 and this will be reported in our next Annual Report for 2014-15.

ICP annual Seminar and Awards – last but certainly not least, on 18 March 2014 we held our annual seminar for Internal Complaints Officers throughout the civil and public service. This provides an open forum for full and frank dialogue between the OCC and government complaints officers. This year's training components were conducted by Ms. Julie Faulknor-Grant, OCC Internal Complaints Manager who provided training entitled: "Difficult Complaints and How to Best Deal with Them", and Mr. Vaughan Carter of Solomon Harris and Juris Consulting who provided training on "Investigative Techniques". That evening Her Excellency the Governor Mrs. Helen Kilpatrick hosted the OCC Awards at Government House. Several civil servants, including Deputy Governor Mr. Franz Manderson, were in attendance when awards were presented to Mr. Joseph Woods of the Port Authority, and Mrs. Tracy Ebanks, of Cayman Islands Development Bank.

3.The Oversight Committee of the Legislative Assembly

The Office of the Complaints Commissioner is an independent office.

The Cayman Islands (Constitution) (Amendment) Order 1993 amended the Constitution of the Cayman Islands to establish the Office of the Complaints Commissioner. The Constitution, in section 49(N)(5), states: "In the exercise of his functions, the Complaints Commissioner shall not be subject to the direction or control of any other person or authority."

While the OCC is independent, it must also account for the manner in which it uses public funds. Section 45 (2) of the Public Finance and Management Law provides for the appointment of a financial oversight committee:

"45 (2) Unless the context otherwise required, Part IV shall apply in respect of the Office of the Complaints Commissioner as if –

(a) every reference to the Governor in Cabinet or a minister were a reference to the committee of the Legislative Assembly responsible for overseeing the performance of the Office of the Complaints Commissioner, or if no such committee exists, the Speaker; and

(b) every reference to a ministry were a reference to the Office of the Complaints Commissioner."

The members of the committee are Mr. Ezzard Miller (Chairman), Mr. Bernie Bush (Deputy Chairman), Mr. Roy

McTaggart, Capt. Eugene Ebanks and Mr. Alva Suckoo.

4.Introduction of Staff

The Office of the Complaints Commissioner is challenging and stressful however, due to the unique impact the office makes on the community, it is a very rewarding place to work. However, due to the high level of stress there is often a high turnover of staff, especially within the post of Investigator.

Complaints Commissioner: Ms. Nicola Williams

Administrative and Investigative Officer: Mrs. Bridgette Lazzari-von Gerhardt

Investigators: Mrs. Julie Faulknor-Grant, and Mr. Daniel Lee

Executive Assistant to the Commissioner: Ms. Abbey Glasgow

Intake Officer: Mrs. Claudine Simons

5.Training

The OCC strongly believes that it is vital for the OCC to have well-trained staff particularly in light of the specialized work the office carries out; and the OCC ensures that staff receive training on a regular basis in order to provide the best service possible to the community.

Further to this, the OCC assist by offering training to other Ombudsman Offices within the Caribbean who are seeking guidance in the establishment of their office. The OCC also assists in nurturing future local leaders by offering summer internships to Caymanian students.

This not only allows the OCC staff to develop, but also allows the OCC to contribute to the development of human resources locally and within our region.

Training of OCC Staff Members

In October 2013 Ms. Julie Faulknor-Grant, OCC Investigator, attended a Conference of the United States Ombudsman Association held in Indianapolis, Indiana to further her Investigative Training. One of the presentations was made by Amanda C. Gingerich, Ph.D., Assistant Professor at the Department of Psychology, Butler University which covered the impact of mood on complainants' perceptions of reality.

In October 2013 the Administrative & Investigative Officer, Mrs. Bridgette Lazzari-von Gerhardt, successfully completed her Chartered Institute of Legal Executives (CILEx) Course in Legal Studies with Distinction. The course is offered by the University College of the Cayman Islands.

In June 2014 Mrs. Lazzari-von Gerhardt, completed her Vocational Paralegal Studies with Distinction from the Chartered Institute of Legal Executives (CILEx), thus becoming a certified Paralegal.

In June 2014 the entire OCC staff participated in a Policy Development and Implementation Best Practice Workshop, conducted at the OCC by Mr. Robert Lewis, Director of the Cabinet Office's Policy Coordination Unit.

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Training conducted by the Office of the Complaints Commissioner

In May 2014 the OCC had the pleasure of hosting and providing Ombudsman training to the Complaints Commissioner of the Turks & Caicos, Mrs. Cynthia Astwood, OBE.

Mrs. Astwood was appointed as Complaints Commissioner by His Excellency the Governor Mr. Ric Todd, on 30 August 2013. Prior to being appointed as Complaints Commissioner, Mrs. Astwood also served as Chief Secretary to the Turks & Caicos Islands.

During Mrs. Astwood's two weeks with the OCC she received complaint intake training with Mrs. Claudine Simons, Investigate Training with Senior Investigator, Ms. Julie Faulknor-Grant, and administrative Training with Bridgette Lazzari-von Gerhardt.

The OCC were also happy to assist her in setting up her office, by providing her with templates for Complaints Registers, Statistical Registers, Annual Reports, and Investigative Plans etc. in order to supply her with the tools needed by her office to carry out the work of the Ombudsman.

It was an honour to host and assist Mrs. Astwood, Complaints Commissioner of the Turks and Caicos, and the OCC hopes that this will be the beginning of a long working and supportive relationship between the two offices.

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Nurturing Future Local Leaders

The OCC feels strongly about contributing to the community, and nurturing future local leaders, therefore each year the office offers summer internships to young Caymanians thereby allowing them an experience of knowing what it is like to be employed in the office of the Ombudsman. Perhaps one day, one of our summer interns may return to work full time as a staff member of the OCC.

Summer internships begin in July of each year, and usually terminate at the end of August. With this in mind, in June each year the OCC enquires at the Law School and the University College of the Cayman Islands to ascertain those persons interested in the internship. In June this year, the OCC interviewed a few high quality candidates which resulted in us splitting the internship between two individuals for this summer. In July 2014 Miss Shamique Davis, currently studying at UCCI will intern with the OCC, and in August 2014 Miss Lashonda Powell, a student of the Cayman Islands Law School will continue the internship post Miss Davis. The staff of the OCC looks forward to having both young ladies with us this summer.

Public Education Outreach

The Office of the Complaints Commissioner is dedicated to educating and raising awareness of the role and function of the OCC, both amongst government entities and with the general public.

As a part of our continuing commitment to maintain public awareness of the business of the OCC, and consequently the business of government, the OCC publishes its work and makes regular public and private appearances.

These outreach initiatives are supported by numerous comments, interviews and articles appearing in the local media. The OCC also has a regular slot on Radio Cayman's Talk Today Programme, where the Commissioner discusses the work of the office and answers the questions of callers.

In April 2014, Commissioner Williams and OCC Investigator, Mr. Daniel Lee provided two training sessions to officers and new recruits within the Customs Department based on the work of the OCC, the OCC jurisdiction, and also explained how the OCC conducts an investigation. Feedback was positive, and the OCC received requests to conduct similar training with other government entities in the near future.

The OCC also promotes the work of the office during Heritage Days each year, by providing promotional booths in each district throughout the Cayman Islands. Below is a photo of our Administrative & Investigative Officer, Mrs. Bridgette Lazzari-von Gerhardt tending the OCC promotional stall during Cayman Brac's Heritage Day.

6.Translation Services

On the basis of broad cultural diversity in the Cayman Islands, it was anticipated that the OCC would better serve the public by being able to assist in languages other than English. Currently the Administrative and Executive Officer, Mrs. Lazzari-von Gerhardt, is bi-lingual and speaks Spanish fluently which assists clients in that language.

The OCC has contracted translation services with All Languages Ltd for services in 50 other languages.

7.Role and Function of the Office of the Complaints Commissioner

7.1 Role

The Office of the Complaints Commissioner exists to safeguard the community in its dealings with government agencies. The OCC has three major statutory roles:

- *Complaint investigation:* the investigation and review of the administrative actions of Cayman government officials and agencies, upon receipt of complaints from members of the public, groups, and organisations.
- *Own motion investigation:* the investigation, on the initiative or "own motion" of the Commissioner (Ombudsman), of the administrative actions of Cayman government agencies – often arising from insights gained from handling individual complaints.
- *Complaint monitoring:* the monitoring of the administrative actions of Cayman government officials and agencies, upon receipt of our recommendations.

The complaints process and own motion investigation roles of the OCC are the more traditional roles that constitute the bulk of work for the office. The guiding principle in an investigation is whether the administrative action under investigation is unlawful, unreasonable, unjust, oppressive, improperly discriminatory, factually deficient or otherwise wrong. At the conclusion of the investigation, we can recommend that corrective action be taken by an agency. This occurs either specifically in an individual case or generally by a change to relevant legislation, administrative policies or procedures.

A key objective of the OCC is to foster good public administration within Cayman government agencies, ensuring that the principles and practices of public administration are sensitive and responsive to the interests of members of the public.

The OCC does not represent the complainant or the government administration. It conducts an independent review and makes objective reports to the parties or the Legislative Assembly. It can address complaints that occurred within the past twelve (12) months if the subject of the complaint is a government entity and if the complaint is not excluded by schedule 2 of the 2006 Complaints Commissioner Law (CCL).

The OCC has jurisdiction to consider decisions taken in the course of "maladministration" by a government entity. Government entities include a ministry, company, department, portfolio, statutory board or authority. Maladministration is defined in the CCL as "inefficient, bad or improper administration." This includes unreasonable conduct (for example, delay) or abuse of power or authority. Abuse of power or authority may include an action based on a mistake of

law or fact; an action (whether based on practices or procedures)which is unreasonable, unjust, oppressive, or improperly discriminatory.

Examples of maladministration taken from the reports of the Parliamentary Ombudsman of the United Kingdom include bias, partiality, neglect, inattention, delay, abuse of power, incompetence, ineptitude, perversity, rudeness, unwillingness to treat the resident as a person with rights, refusal to answer reasonable questions, neglecting to inform a complainant about rights or entitlement including appeal routes, knowingly giving misleading or inadequate advice, offering no redress, faulty procedures, failure by management to adequately monitor compliance with procedures and failure to reduce the effects of rigid adherence to the letter of the law where that produces inequitable results.

The OCC also has jurisdiction to consider the inequitable or unreasonable nature or operation of any enactment or rule of law.

7.2 PRIMARY FUNCTIONS

The primary functions of the OCC are to investigate; to recommend; to report; and to monitor.

7.2.1 Investigate

A key objective of the OCC is to contribute to public discussion on administrative law and public administration and to foster good public administration that is accountable, lawful, fair, transparent and responsive. We pursue this objective in different ways – by looking in depth at an issue arising in a particular ministry/department/portfolio; drawing attention to problem areas across government administration; conducting own motion investigations; working jointly with ministries/departments/portfolios to devise solutions to the administrative problems that arise within government; and making submissions to external reviews and enquiries that are examining issues in public administration.

The OCC will investigate complaints made in writing that fall within the scope of the CCL, and matters directed to it for investigation by resolution of the Legislative Assembly. The OCC may also, on its own initiative, investigate matters which, in the Commissioner's opinion, must be investigated in the public interest.

The purpose of the investigation is to ascertain whether "injustice" occurred as a result of maladministration.

The powers of investigation are the same as those of a Grand Court Judge, although the Commissioner is not bound by the rules of court and can set his/her own procedure within the confines of natural justice. These powers include the power to summon witnesses and receive confidential documents. Also, the Commissioner may order re-entry of a person removed from the Islands by the Immigration Department who is important to an ongoing investigation.

7.2.2 Recommend

The OCC may recommend action to be taken by an administrator when maladministration is found. The recommendations may address a specific action causing an injustice and may address laws, regulations or rules that lead to an unjust result. The OCC may recommend payment of compensation for the complainant who was wronged. In addition, the Commissioner may make such comments in relation to a case as she thinks fit, whether or not an injustice has occurred.

7.2.3 Report

The OCC must inform the head of a government entity of the result of an investigation if injustice is sustained as a result of actions taken by the entity, or serious misconduct is discovered. If there is no compliance by an administrator on a recommendation made by the OCC, the OCC must report this failure to the Legislative Assembly in the form of a Special Report. A Special Report must first go to the Governor, before being presented to the Legislative Assembly.

7.2.4 Monitor compliance

The OCC must monitor compliance by government entities regarding recommendations made by the Office.

7.3 Additional functions

The CCL authorises the OCC to organise the mediation of a complaint that is minor in nature, where the parties are willing to meet to attempt to resolve the problem. This can be an effective route where, for example, the member of the public must often interact with the same government officer. Mediation can help defuse tension or frustration and serve to begin a dialogue and open lines of communication.

To better perform the role and function stated in the CCL, the OCC, by implication, must inform the public service and the residents of the Islands of all aspects of the Office. Under the new Complaints Commissioner the OCC now has an active programme of public education and outreach to both public servants and members of the public, cutting across all socio-economic groups.

7.4 Areas outside the jurisdiction of the OCC (Schedule 2)

1. International affairs – matters certified by the Governor to affect relations between the government and another country's government (or its international organisations).
2. Matters of national defence, external affairs and internal security (e.g., Emergency Powers Law).
3. Investigation of crime, or protection of the security of the Islands, by Police, Customs or Immigration.
4. The Governor's power of pardon.
5. Court proceedings, whether civil or criminal in nature.
6. Issues concerning the employment (e.g., hiring, promotion or firing) of government employees.
7. The Attorney General's powers of prosecution (e.g., beginning, overtaking or ending).
8. Legal advice given by the Attorney General to the government.
9. The Auditor General's actions (e.g., reviewing the government's accounts).
10. Matters under the Mutual Legal Assistance Treaties.
11. Contracts for services for government (but can investigate purchases of land).
12. Matters defined by the Constitution as outside of the authority of the court.

13. Any judicial function.

7.5 SCOPE OF ACTIVITIES

Receiving written complaints from the public and determining if they should be investigated.

Appointing mediators to resolve complaints regarding minor matters of maladministration.

Investigating written complaints from the public and reporting to the complainant and government entity on the results of the investigation.

Making recommendations for actions to be taken where injustice has occurred as a result of maladministration, monitoring compliance with these recommendations and, where adequate action is not taken, preparing a special report to the Legislative Assembly.

Referring to the relevant person or entity for their action any evidence of breach of duty, misconduct or criminal offence;

Ascertain the inequitable or unreasonable nature or operation of any enactment or rule of law.

Providing an Annual Report to the Legislative Assembly on the performance of his/her functions.

7.6 STRATEGIC OWNERSHIP GOALS

The key strategic ownership goals for the Office of the Complaints Commissioner in 2011-12 were as follows:

- The OCC will carry out fair, thorough and independent Investigations, where necessary

- The OCC will conduct Own Motion Investigations on matters of special public importance

- The OCC will set standards for, and monitor the effectiveness of internal complaints processes throughout the government

The OCC achieved all goals outlined in the 2013-14 Budget. There were no amendments to the Complaints Commissioner Law.

The OCC completed 87 complaint investigations in the 2013-14 fiscal year, making it 37 complaint investigations over what was budgeted for. An Own Motion Investigation was planned for the fiscal year, but due to amount of work required to investigate complaints filed during the year, there was insufficient time to investigate an OMI.

The Commissioner and her staff met with persons within districts on Grand Cayman, Cayman Brac and Little Cayman during each district's Heritage Day to increase public awareness, and the Quarterly Newsletters also continued to increase public awareness of the role of the Office of the Complaints Commissioner.

In house training is conducted annually for the staff at OCC in order to allow their professional development, and further to this staff development is agreed with staff taking various courses through the Civil Service College, the University College of the Cayman Islands, the Chamber of Commerce or online through various learning institutions.

The Commissioner served as Treasurer of the Caribbean Ombudsman Association (CAROA) 2013-2014, and continues to represent the Complaints Commission at the Ombudsmen Association meetings to enhance the OCC's visibility internationally.

The Commissioner is a member of the Anti-Corruption Commission [ACC] and she attended various ACC meetings during the year.

8. Demographics

Attached as Appendix B, is an indication of the demographics of the people served by the Office of the Complaints Commission. These are based on our investigations conducted during the 2012-13 Fiscal Year.

A total of (87) complaints were filed this Fiscal Year: the largest number of complainants who filed complaints, registering their residential district were from George Town (18 complaints), though an even larger number of complainants (38) did not register their residential district. Fifty (50) complaints were filed by male complainants, 33 complaints were filed by females, 2 married couples filed complaints, and 2 complaints were filed by local companies.

The number of complaints filed (87) by persons seeking assistance from the OCC demonstrates the credibility of the office within the community. This office is committed to continuing to increase the visibility of the OCC to all socioeconomic groups in the Cayman Islands.

9. Intake and Case Flow Process

The basic intake process is depicted in a flow chart located below at appendix A.

Appendix A

COMPLAINT RECEIVED

Is the Complaint within jurisdiction?

No-- Complainant advised where assistance may be obtained

Yes—

Attempts made by complainant to resolve complaint in other ways, including appeals?

No Complainant referred to appeal process

Yes—

Has informal review determined if evidence is sufficient for informal resolution or investigation?

No—Complaint closed by letter

Yes—

What happens when informal resolution is attempted with officer?

Successful ---Closed file by letter

Not successful—investigation

INVESTIGATION

Maladministration identified?

No –Complaint closed by letter

Yes – Consider alternative Dispute Resolution? Yes or no.

Formal discussions, resolution?

No—Discussion with section head or head of department

Yes –Resolution and/or Report

RESOLUTION AND/OR REPORT

May include recommendations or comment.

10.*Case Examples*

The OCC deals with a diverse range of complex complaints where the results can differ widely. Below, we present a number of case studies reflecting that diversity and the very different outcomes that can occur. Other cases are discussed later in this report. Sometimes, government entities are found wanting and the OCC will offer recommendations to rectify the circumstances giving rise to the complaints and prevent future repetition. The OCC often finds that entities in question are not at fault but that the law or regulations are inadequate. And in many cases, neither the office in question nor the procedures are at fault resulting in the OCC finding no maladministration.

It is also the policy of the OCC to allow government entities the opportunity to resolve complaints first, allowing the entity an opportunity to identify areas where there are systemic issues which can then be corrected in order to improve the service to the public. Therefore, the OCC will inquire if the complainant has first lodged their complaint with the respective government entities Internal Processes Manager, and if this has not been done the OCC will refer the complainant to the I.C.P. Manager prior taking the complaint. There are 74 government entities that presently have I.C.P. procedures in place, of which the majority appear to be functioning satisfactorily.

Investigations can involve a number of different entities and require the analysis of expert opinion and special reports. In maintaining confidentiality, some names and specific details of cases below have been omitted.

COMPLAINT FILED AGAINST THE CENTRAL PLANNING AUTHORITY FOR REFUSAL TO COMPLY WITH REQUIRED LAWS AND REGULATIONS
C1213-12793

A complaint was filed against the Central Planning Authority for failure to confirm that companies submitting applications for work, possess a valid Trade and Business License – a requirement in accordance with the Development and Planning Law (2011 Revision), and the Development and Planning Regulations (2011 Revision) and (2012 Amendment). The Office of the Complaints Commission was provided with satisfactory evidence that the Complainant had been though the ICP process without satisfactory resolution which resulted in the commencement of an investigation. Whilst the OCC concluded that the

Complainant had suffered no direct detriment by the actions of the authority, recommendations were made and the OCC was satisfied that the authority had taken substantial steps to remedy the situation.

COMPLAINT FILED AGAINST THE DEPARTMENT OF ENVIRONMENTAL HEALTH (DEH) FOR NON RESPONSE

C1213-12854

A complaint was filed against the Department of Environmental Health for non-response after the Complainant sought a formal apology and reimbursement for monies spent on veterinary expenses after a representative of the DEH deployed poison around their property without prior notification nor consent by the Complainant which was regrettably consumed by the family pet. While an acknowledgement was received from the DEH to the Complainant, no affirmative action solidified from the Complainant's request. The Complainant was then referred to the Risk Management Department's Chief Officer as a means of rectification via the internal complaints process (ICP).

COMPLAINT FILED AGAINST THE PORT AUTHORITY

C1213-12863

A complaint was filed against the Port Authority regarding an ongoing and existing issue between them, the Royal Watler Tenants Association and the Planning Department. The Complainant was advised that the Office of the Complaints Commission allows government entities, the opportunity to first investigate their own complaints prior to this office commencing an investigation. Subsequently, the Complainant was also provided with the contact details of the ICP Managers for each entity.

COMPLAINT FILED AGAINST THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES (DCFS) FOR NON RESPONSE

C1314-12865

A complaint was filed against the Department of Children and Family Services failing a response from a letter requesting assistance with health care coverage. The Complainant was advised that he was now within his rights to lodge a complaint with the Office of the Complaints Commissioner for unfair treatment and non-response to which the Complainant advised he would think the matter over and revert back to the OCC within a specified time frame. Shortly thereafter, the OCC was provided with a copy of a letter from the DCFS to the Complainant advising that his request for health care coverage was approved.

COMPLAINT FILED AGAINST THE IMMIGRATION DEPARTMENT FOR DENYING AN APPLICATION FOR PERMENANT RESIDENCY

C1314-12870

A complaint was filed against the Immigration Department for their decision in refusing an application for permanent residency (PR) for the Complainant. The Complainant advised the OCC that she had informed her employer of her intentions to apply and he gave her a parcel of land as a gift and to assist her with her application as it is a requirement of all applicants to have invested in property in the Cayman Islands. The daughter of her employer wrote to the Immigration Department advising them that the

land was obtained via deceit; which resulted in the Complainant feeling that was the primary purpose for the refusal of application which also resulted in her losing points and that she was not given the opportunity to defend herself. The Immigration Department advised the Complainant that it is a requirement for her to invest in property as opposed to being given one as a gift in order to be considered for PR. The OCC then recommended that the Complainant refer the matter back to the Immigration Department should she require any further clarification on the matter or request to see the various areas she received points on via a Freedom of Information Request.

COMPLAINT FILED AGAINST THE HONORABLE CHIEF JUSTICE AND THE ROYAL CAYMAN ISLANDS POLICE SERVICE FOR SPECIFIED REASONS

C1314-12872

A complaint was filed against the Honorable Chief Justice in relation to charges including resisting arrest and causing actual bodily harm. The Complainant also advised the OCC that the way in which he was treated by the RCIPS was unlawful. The Complainant was advised that the matter was outside the jurisdiction to investigate pursuant to Section 2 paragraph 5 which states "the commencement or conduct of civil or criminal proceedings before any court of law in the Cayman Islands". The OCC also suggested that the Complaint allow the office of the Honorable Chief Justice, two weeks to respond to his written letter of complaint and failing a response within this time period, he was within his right to file his complaint with the Governor's Office.

COMPLAINT FILED AGAINST HER MAJESTY'S NORTHWARD PRISON (HMNP) FOR UNETHICAL BEHAVIOUR

C1314-12954

A complaint was filed against Her Majesty's Northward Prison (HMNP) by a Complainant residing in Jamaica. The Complainant advised the OCC that he was a previous inmate at the prison and that unethical occurrences were frequent between specified inmates and prison staff. The OCC advised the Complainant that he would have to be a resident of the Cayman Islands in order to file a complaint with this office.

REQUEST FOR A REVIEW OF A COMPLAINT PREVIOUSLY FILED AGAINST THE DEPARTMENT OF LABOUR AND PENSIONS (DLP) FORMERLY THE DEPARTMENT OF EMPLOYMENT RELATIONS (DER)

C1314-12895

A complaint was previously investigated against the Department of Labour and Pensions (DLP) – formerly the Department of Employment Relations (DER) which was reviewed and closed by the OCC based on evidence submitted by the Complainant and the entity complained against in addition to meetings held by the OCC with the DER and the Complainant during the course of the investigation. The Complainant recently contacted the OCC with new evidence in which the Information Commissioner's Office ruled in the Complainant's favor which allowed the Complainant access to a record held by the DLP regarding non-payment of overtime benefits. The OCC reviewed the new evidence submitted however; ruled that the information submitted was not substantial to warrant re-opening of the case. The Complainant was advised by the OCC that all

avenues in pursuit of his complaint had been exhausted and suggested he seek legal remedy via the courts.

COMPLAINT FILED AGAINST THE IMMIGRATION DEPARMENT FOR UNFAIR TREATMENT IN THE GRANTING OF WORK PERMITS FOR A LOCAL BAR/RESTAURANT

C1314-12888

A complaint was filed against the Immigration Department for unfair treatment in the granting of work permits for employees whereby, the Complainant advised the OCC that he felt the reason his permit request/s was being refused was based on an allegation that one of his female employees was connected to the spouse/partner of a female member of staff from the Immigration Department. The Complainant further stated that he was aware that other Bar/Restaurant owners were not having any issues with obtaining work permits nor were they being directed to the Department of Employment Relations to file vacant positions within their companies as he was required to do. The OCC acknowledge receipt of the written complaint and advised the Complainant to file his concerns to the internal complaints process (ICP) manager of the Immigration Department.

COMPLAINT FILED AGAINST THE NATIONAL PENSIONS OFFICE (NPO) FOR DELAY IN THE ISSUANCE OF PROCEEDS FROM A PENSION ACCOUNT

C1314-12898

A complaint was filed against the National Pensions Office. He had filed a complaint with the N.P.O. against his former boss in regards to his failure to pay pension. The Complainant, who was previously employed as a bus driver and was no longer employed, was required to leave the Island, and felt that the NPO was not assisting him well with the matter. The OCC contacted the NPO regarding the matter and the officer assigned to him with him to give an update regarding the matter. The officer then met with the former employer and they reached an agreement that the arrears in pension owed will be paid off to the employer within seven months.

COMPLAINT FILED AGAINST THE IMMIGRATION DEPARTMENT FOR REFUSAL TO GRANT A WORK PERMIT FOR AN INDIVIDUAL MARRIED TO A CAYMANIAN

C1314-12902

A complaint was filed against the Immigration Department in regards to the Caymanian Status & Permanent Residence Board for their failure to hear the matter concerning the application for a work permit for an individual married Caymanian. The Complainant advised the OCC that she has been to see the Secretary of the Board several times regarding the situation however; nothing has solidified regarding her application. The Complainant was advised to file her complaint with the Immigration Department's ICP Manager and provided her with the relevant contact information.

COMPLAINT FILED AGAINST THE HEALTH APPEALS TRIBUNAL FOR THEIR DECISION IN A CASE RELATING TO TREATMENT RECEIVED BY A PRIVATE DENTAL CLINIC

C1314-12913

A complaint was filed against the Health Appeals Tribunal for their decision regarding an original complaint regarding treatment received by the Complainant who sought compensation for the pain and suffering she experienced due to unprofessional and poor treatment while attending a private dental clinic on Grand Cayman. The Complainant was advised by the OCC to re-submit her complaint to the Health Services Authority Internal Complaints Process (ICP) Manager.

COMPLAINT FILED AGAINST THE GOVERNOR'S OFFICE, THE DEPUTY GOVERNOR'S OFFICE AND THE IMMIGRATION DEPARTMENT REGARDING CONCERNING TREATMENT BY LOCAL PERSONS

C1314-12923

A complaint was filed against the Governor's Office, The Deputy Governor's Office and the Immigration Department. The Complainant stated that his family had been going through a very difficult time and some local individuals were working on having him and his family removed from the Cayman Islands. The Complainant further advised the Office of the Complaints Commission (OCC) that he wrote the Governor's Office, the Deputy Governor's Office and the Immigration Department regarding the matter. On several occasions, the OCC requested additional information from the Complainant however, was later informed that the Ministry for Home and Community Affairs had been corresponding with the Complainant directly and the matter was subsequently closed as premature.

COMPLAINT FILED AGAINST THE DEPARTMENT OF LABOUR AND PENSIONS (DLP) FOR ABUSE OF AUTHORITY IN THE TREATMENT OF THE COMPLAINANT DURING AN INTERVIEW

C1314-12924

A complaint was filed against the Department of Labour and Pensions for abuse of authority in addition to them being in violation of the Complainant's fundamental rights in the way the Complainant was treated during an interview in 2012. The Complainant advised the OCC that upon commencement of the said interview, he was greeted by two representatives of the DLP – one of whom advised him that he would be requiring the services of an attorney post their meeting. The Complainant felt that he should have been previously advised to have his attorney present at the said meeting (not post) and subsequently advised the OCC that he perceived this to be a threat. The Complainant was advised that in accordance with Section 13(3) of the Complaints Commissioner Law (2006 Revision), the matter was outside the required time period of twelve (12) months in which an aggrieved person can file a complaint with the OCC. The Complainant was then referred to and provided with the name and contact number for Director of Labour and Pensions.

COMPLAINT FILED AGAINST THE IMMIGRATION APPEALS TRIBUNAL FOR REFUSAL TO GRANT CAYMANIAN STATUS FOR NON SUBMISSION OF A REQUIRED DOCUMENT

C1314-12941

A complaint was received against the Immigration Appeals Tribunal for refusal to grant the Complainant Caymanian Status pursuant to the decision being made by the Caymanian Status Board due to non-submission of the birth certificate for the Complainant's grandfather. The Office of the Complaints Commission was further advised that the Complainant did however, submit the document in which was signed by the Immigration Department as acknowledgement of receipt. The Complainant advised the OCC that she had retained the services of an attorney and intended to appeal the matter before the Courts of the Cayman Islands. Given this fact, the OCC advised the Complainant that the matter was now no longer subject to investigation in accordance with section 11(2) (a) & (b) of the Complaints Commissioner Law (2006 Revision): (a) Any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any law; or (b) any action in respect of which the person aggrieved has or had a remedy by way of proceeding in any court of law.

COMPLAINT FILED AGAINST THE HEALTH INSURANCE COMMISSION, THE PREVIOUS COMPLAINTS COMMISSIONER AND, THE JUDICIARY FOR SPECIFIED REASONS

C1314-12946

A complaint was received with the Office of the Complaints Commission against the Health Insurance Commission and the previous Complaints Commissioner for their ruling in which the Complainant advised the OCC that his wife's former employer failed to provide health insurance coverage for her during the tenure of her employment with them. The OCC was unable to review this case in accordance with Section 13 (4) of the Complaints Commissioner's Law which states: "A complainant shall not be entertained unless it is properly made not later than 12 months from the day of which the person aggrieved first had notice of the matters alleged in the complaint, but the Commissioner may conduct an investigation pursuant to a complaint not made within that period if he considers there are special circumstances which make it proper to do so". The same Complainant placed a second complaint regarding the date of disqualification for his driver's license stating that it was incorrect. The OCC liaised with the Courts office and confirmed that the date of disqualification quoted on the police record was indeed correct and the Complainant was advised accordingly.

COMPLAINT FILED AGAINST THE IMMIGRATION DEPARTMENT FOR UNETHICAL TREATMENT OF A PERSON APPLYING FOR NATURALIZATION

C1314-12950

A complaint was received against the Immigration Department for poor customer service from an Immigration representative and a senior member of staff. The Complainant stated that she had requested a Travel History Report as she was applying for naturalization. Upon receiving the report however, she noted that the dates which specified a time period off island was incorrect. Upon attempting to have the matter rectified, she was advised by the Immigration Department to have the pages of her passport notarized which was supported by the Supervisor. The procedure was questioned by the Complainant as she presented both her passports to rectify the issue which should have been copied and certified by Immigration. The xx for the

Immigration Department contacted the Complainant, apologized for her negative experience and advised her that the matter was being forwarded to their internal complaints process (ICP) manager.

11. Matters Arising from Written Complaints

11.1 Special Reports

The Complaints Commissioner Law (2006 Revision), section 18(3) states that, where the Commissioner has made a recommendation and he is of the opinion that inadequate action has been taken to carry out the recommendations, a special report must be laid before the Legislative Assembly.

No Special Reports was done during the 2013-2014 year, as the Commissioner received evidence that Government Entities were working to comply with Recommendations made by the OCC.

12. *Own Motion Investigations*

In January 2013, the OCC began an Own Motion Investigation entitled, ***"Let the Whistle Blow"*** to ascertain whether there are adequate protections or protective measures for Reporters of Wrongdoing (also known as Whistleblowers) within the Cayman Islands Government – including, but not limited to, legislation; policy; and work culture custom and practice.

In 2013, the issue of whistleblowing was reported widely across the globe, but this is not a modern problem.

Whistleblowing was one of the matters examined and reported on in the 2008 Clifford Report. However, despite the recommendations in this area, there is still little or no protection for potential whistleblowers, or reporters of wrongdoing, who are employed by the Cayman Islands Government.

Whistleblowing recommendations have been made before by the OCC since the Office was established in 2004 – most recently in the OCC Report on Pensions (2010) and the Health and Safety in the Construction Industry (2012), both of which stated that the law should be changed to allow penalties for victimization in order to protect whistleblowers.

COMMISSIONER'S INTRODUCTION

In 2013, the issue of whistleblowing was reported on widely across the globe – in particular the cases concerning Bradley Manning and Edward Snowden. But this is not a modern problem; in September 2013, an article in the Sunday Times described Col. Georges Picquart, a former head of the French army secret intelligence service, as 'The Original Whistleblower' for his part in the libel trial of the novelist Emile Zola, who had written about the 1894 Dreyfus affair.

Whistleblowing was one of the matters examined and reported on in the 2008 Clifford Report. However, despite the recommendation in this area, there is still little or no protection for potential whistleblowers, or reporters of wrongdoing, who are employed by the Cayman Islands Government.

Whistleblowing recommendations have been made before by the OCC since the Office was established in 2004 - most recently in the OCC Reports on Pensions (2010) and Health and Safety in the Construction Industry (2012), both of which stated that the law should be changed to allow penalties for victimization in order to protect whistleblowers – but these concerned discrete government entities. The absence of a comprehensive, safe, confidential and effective process, underpinned by legislation which is robustly enforced, does not just affect government employees and their families; **effective whistleblowing protection for both the public and private sector makes good business sense.** For example, in November 2012 Forbes magazine ranked New Zealand first on its most recent list of the Best Countries for Business thanks to a transparent and stable business climate. According to Phil O'Reilly Chief Executive of Business New Zealand, *"New Zealand's high trust public sector is its greatest competitive advantage."*

All recommendations will be monitored for compliance.

EXECUTIVE SUMMARY

a) TERMS OF REFERENCE

As stated on the Title Page, this is "An investigation to ascertain whether there are adequate protections or protective measures for Reporters of Wrongdoing (also known as Whistleblowers) within the Cayman Islands Government."

The Terms of Reference for this Own Motion Investigation and Report include, but are not limited to, the following:

- Legislation - existing legislation and the adequacy of same; is new legislation needed, and if so, what?
- Policy – what, if any, policies currently exist? Are they adequate? Are new or additional policies needed?
- Current work culture, custom and practice – is there an existing work culture that leads to a tolerance of wrongdoing in the first place? What actually happens to whistleblowers in each government entity? Are investigations carried out? If so are they properly conducted in accordance with existing policy, rules of Natural Justice, and/or Human Rights?
- Best practice from other jurisdictions.

b) FINDINGS

1. FINDING – Civil and Public Servants, whether Caymanian or non-Caymanian, are extremely reluctant to report wrongdoing both for fear of reprisal, either direct or indirect (i.e., fear of repercussions on family members) and because of a strongly held belief that the wrongdoer will not be punished.

2. FINDING – Whilst Civil Servants, past and present, who were interviewed for this Report recounted many instances of intimidation, victimization or reprisal against whistleblowers, civil servants at Chief Officer level and above largely claimed to be unaware of any such issues.

3. FINDING - There is no effective and rigorously enforced whistleblowing policy within the Cayman Islands Government. The absence of same undermines the ability of civil and public servants to fully comply with Part II of the Public Service Management Law (currently 2013 Revision).

4. FINDING - The proper treatment of whistleblowers is a "good governance" issue, as well as a human rights issue. This also has an impact on private sector business as well.

5. FINDING - The protection from victimization will depend on the robustness of the body to which the whistleblower is reporting.

c) RECOMMENDATIONS

Law

1. RECOMMENDATION - Enact stand-alone legislation to deal with whistleblowing as in Jamaica, Australia, New Zealand and elsewhere (see Section 13 of this Report). Although, according to senior lawyers employed within the Government Legal Service, there are a few sections in individual laws that could be relied upon by whistleblowers, the OCC is firmly of the view that people should not have to trawl through legislation to cherry-pick sections of applicable legislation, which is especially difficult for ordinary members of the public, and does not assist transparency. The protection should extend to volunteers as well as to employees and others receiving payment for their services.

2. RECOMMENDATION - There should be a Positive Duty to Report as *per* the Money Laundering and Anti-Corruption Laws.

Civil Service Policy and Practice

3. RECOMMENDATION - Change the culture of the Civil Service to encourage whistleblowing and support whistleblowers – to see whistleblowers properly as Reporters of Wrongdoing.

4. RECOMMENDATION and FINDING - Hand in hand with 3 above is accountability for the perpetrators of wrongdoing. If they are not appropriately punished no-one will come forward.

5. RECOMMENDATION – Government should draft a Whistleblowing Policy document containing the points raised in Section 8(b) of this Report.

6. RECOMMENDATION - Keep the Public Service Values and Public Servant's Code of Conduct front and centre for all who work in any government entity or carry out government business, even if not directly employed by government.

7. RECOMMENDATION – Establish a confidential hotline or tip line for whistleblowers, properly funded and resourced on an ongoing basis.

8. RECOMMENDATION - Confidentiality for whistleblowers must be ensured.

Public Education and Outreach

9. RECOMMENDATION – Establish a programme of public education to advise people on what amounts to whistleblowing, and as to what legislation and protections are currently, or will imminently be, in place.

Other

10. RECOMMENDATION – consideration should be given to a Government Minister holding the portfolio for the Public Service and Integrity, in much the same way as Australia.

POWERS OF THE OCC

The aim of the Office of the Complaints Commissioner is to investigate complaints against government in a fair and independent manner, in order to determine whether injustice has been caused by improper, unreasonable, or inadequate government administrative conduct, and to ascertain the inequitable or unreasonable nature or operation of any enactment or rule of law.

Sec.11(1) of the Complaints Commission Law (2006 revision) empowers the Commissioner to launch an investigation without first receiving a written complaint (i.e. of the Commissioners Own Motion) for a particular issue that is deemed as having special importance which then makes an investigation by the Commissioner desirable in the public interest.

WHY WHISTLEBLOWING? BACKGROUND TO THE INVESTIGATION.

There is no legal or official government definition of whistleblowing, not even in parts of legislation that specifically deal with whistleblowing – S.50 of the Freedom of Information Law 2007, and Clause 23 of the Standards in Public Life Bill 2013. Many interviewees were asked what they considered this concept to be; there was a general broad understanding but nothing precise.

At its simplest, a whistleblower, or reporter of wrongdoing, is a person who exposes wrongdoing within an organization in the hope of stopping it. **This should and must be viewed in a constructive and positive way.** Those who have an interest in demeaning whistleblowers describe them in a number of pejorative ways - as informants, gossips, "grasses", "snitches" or traitors. For this reason, throughout the Report, the terms 'reporters of wrongdoing' and 'reporting wrongdoing' will be used interchangeably with 'whistleblowers' and 'whistleblowing'.

Everyone in the Cayman Islands has a potential interest in ensuring *bona fide* whistleblowers are protected. Where Government workers and their families are concerned, this is self-explanatory.

With regard to both the private and business sector:

1. If government does not work properly in this area, everyone suffers, including the business community – and there is arguably a greater world focus on Cayman because of its major offshore status.
2. Many of the whistleblowers interviewed by the OCC reported financial irregularities as being mainly or entirely the reason or subject about which they felt compelled to report wrongdoing.

With regard to ordinary members of the public – what happens in government affects us all, directly or indirectly, so if a ROW is punished for doing the right thing, government maladministration or corruption will continue unchecked. This issue has already been

highlighted by Dr. Epp to Attorney-General Sam Bulgin in his e-mail dated 23 September 2008 entitled "Anti-Corruption and Ottawa seminar".

The timeframe covered by this Report is from 2008 (the date of the Clifford Enquiry Report and Recommendations) to 2013, and spans two political administrations. Unlike previous OCC Own Motion Investigations, this is not limited to one government entity, but is across the entire Public Service, including all government entities as defined in S.2(1) of CCL 2006 – i.e., a government Ministry, government company, government department, government portfolio, statutory board or authority.

Monitoring

The OCC is now monitoring for compliance of Recommendations.

13. *Complaint Resolution and Mediation*

The majority of enquiries to this office are handled by referring complainants to the internal complaints manager in the agency concerned. The OCC assists enquirers by helping them to clearly understand their complaint, explaining procedures that apply to their case, and making appointments for them at the relevant government entity. This is consistent with good dispute-resolution principles, which stress that an entity should generally be given the first opportunity to consider a complaint and resolve it. Many government entities now have internal complaints processes that can deal effectively with the majority of the complaints they receive. By handling complaints directly, entities are enabled to learn from their mistakes, to clarify any public misunderstanding about the entity's policies and practices, and to rebuild trust with the clients. Complaint referral is also often the most efficient means of addressing a person's complaint.

However, we have at our disposal another means to resolve disputes. The Complaints Commissioner's Law (CCL) authorises this office to organise the mediation of a complaint that is minor in nature, where the parties are willing to meet to attempt to resolve the problem. This can be an effective route where, for example, the member of the public must often interact with the same government officer. Mediation can help defuse tension or frustration, and can serve to begin a dialogue and open lines of communication.

The Complaints Commissioner's Law (2006 Revision) states the following:

S 12. (1) The Commissioner may decide to deal with a complaint by mediation under this section if he is of the opinion, having regard to all the circumstances of the case, that the subject matter of the complaint involves only minor maladministration.

(2) The Commissioner shall appoint, in accordance with section 8, such person as he thinks fit to be a mediator in any mediation.

(3) The Commissioner shall not participate in any mediation.

The OCC currently has one member of staff who is an accredited Mediator.

14. *The Power of Recommendation*

In the event that an investigation results in a finding of maladministration and injustice, the OCC can make a recommendation under section 18(6)(a) of the CCL. Some recommendations made were referred to in the case summaries above and others are noted below. Recommendations are monitored to encourage compliance, and if reasonable progress towards compliance is not made (in the case of recommendations arising from written complaints) a special report is made under section 18(3) to the Legislative Assembly. In the event that an investigation results in a finding of no maladministration or injustice, the OCC does not make a recommendation.

14.1 Recommendations complied with

The test for compliance is substantial, not exact, compliance. In some situations, a long period of time lapses before a recommendation is complied with, i.e., amending legislation. In other situations, recommendations are seemingly ignored in spite of the pledge made on behalf of government by the Attorney General recorded in Appendix A.

Here is an example of 2 recommendations which were complied with in the Fiscal Year 2013-14, relating to the following complaint:

Complaint # 12770 filed on 2 November 2014 by a local couple against the National Housing Development Trust (NHDT) for irregularities and unfinished and poor work carried out by a NHDT approved contractor.

Summary of the complaint

The complainants stated that under the former General Manager, irregularities and unfinished, poor work was allowed to transpire by management. They also claimed that they were approved a loan through the NHDT to build their first home, and that under the NHDT they hired a construction company, which was approved by the NHDT to do the construction. According to the complainants, procedures that should have been followed were not, including a valuation that should have been carried out in each stage when the house was being built.

The couple also stated that the husband was required to sign off on each monetary draw down that the contractors were to receive, however, he only signed off on two of the cheques with the NHDT. The other cheques that required his signature were paid to the contractors without his knowledge and signature. They also stated that the contractors were allowed to receive these cheques with the knowledge and consent of the former General Manager. Additionally, due to the contractors underbidding the cost to build the house, their house now remains unfinished and faulty. They initially informed the General Manager that they were not pleased with the work done on the home and claimed that she assured them that she would deal with the problem. However, the former General Manager failed to take any corrective measures, and the

complainants stated that they were referred to seek assistance from the OCC by the acting General Manager.

As the OCC conducted its investigation into this matter, it was agreed that some of the technical issues that arose were outside of the expertise of the OCC. As a result, the OCC solicited the assistance of an independent external valuator to assist in analysing some of the issues relating to the detriment of benefit to the complainants as a result of the lack of involvement of the entity. The details of the valuation are contained below:

Findings by the Valuator

The Valuator found that the quality of workmanship was of a very low standard, in addition to there being a structural issue with the construction with regard to the installation of the windows which was not in accordance with the manufacturer's instructions. Further, the valuator also listed other areas of concern which should have also been addressed.

OCC Findings and Recommendations

The Commissioner found that the complainants had experienced maladministration as a result of the lack of action and compliance with policies during the time that their home was being built under the NHDT. She also found that the NHDT not only failed to adequately monitor how the funds were being dispersed, but also in not conducting a quality assurance site inspection prior the disbursement of the final cheque to ascertain the quality of workmanship that had been carried out on the home of the complainants, particularly when they had contacted the former General Manager regarding their concerns shortly after moving into the house. The OCC also recognized that as a result of the NHDT's lack of action in not following up on the couple's concerns, the amount of time that had lapsed may have also resulted in them not being able to lay any claims with their former contractor and therefore not being fairly compensated.

The Commissioner made the following Recommendations:

1. That the NHDT within 30 days provide the OCC with a copy of their policies and procedures, which was to include the criteria on the proper draw down procedures that would include checks and balances along the way to ensure that work done on any property is carried out in accordance with the contractor's obligations and at a standard that is to the satisfaction of the NHDT and the clients. The Trust should then consider incorporating this in their policy to prevent occurrences such as those experienced by the complainants from happening again. In addition the policy should also offer some protection to its clients, as well as making it a mandatory requirement for a NHDT representative to be responsible for conducting site visits which would cover an assessment of

the quality of work done on both the exterior and interior building and the owners contacted regarding their satisfaction, prior to any monies being disbursed. In cases where it is more feasible for the NHDT to hire a property valuator, the NHDT should put in place a specific "valuation criteria" whereby valuators are required to provide to the NHDT as opposed to the valuator only listing the basic valuation details such as the stage that the building is at and the outstanding work that the contractor has to do to complete the building.

2. Within 60 days have a representative visit the home of the complainants to have it assessed and provide us with a plan of action on what assistance they can provide to the complainants based on the report provided by the external valuator utilized by the OCC.

Compliance: The OCC received proof of substantial compliance on 13 December 2013 therefore monitoring of these recommendations has ceased.

14.2 *RECOMMENDATIONS MONITORED*

The OCC monitors all Recommendations made to government entities as a result of investigative findings related to complaints filed with the OCC, or Own Motion Investigations launched by the Complaints Commissioner. In July 2013 when the fiscal year began, the OCC were monitoring 21 Recommendations. In June 2014, at the end of the fiscal year, the OCC were monitoring 30 Recommendations.

15. *Special Projects*

15.1 The Existence of Internal Complaints Processes in Government Entities in 2013-2014.

The OCC continues to monitor entities which have Internal Complaint Processes in place.

The OCC held its Annual Internal Complaints Process (ICP) Seminar on 18 March 2014 to assess how the Internal Complaints Process was working throughout Government one year on. The purpose of the Seminar was to assist civil servants primarily dealing with internal complaints and allowed for an open forum where information, advice and best practices could be discussed.

Each year the OCC hosts its annual ICP Seminar with an open forum where ICP Managers can receive training and valuable information on how they can improve their service, in addition to giving them the opportunity to exchange and share information on how they feel their service/system may be improved.

The seminar was well attended, with the Deputy Governor, Mr. Franz Manderson also providing an introductory speech to all attendees. In attendance was also special guest and presenter, Mr. Vaughan Carter of Juris Consulting who provided training on "Investigative Techniques".

Ms. Julie Faulknor-Grant, OCC Internal Complaints Manager, also provided a significant training component entitled, "Difficult Complainants and How to Best Deal with Them".

In the evening, Her Excellency the Governor Mrs. Helen Kilpatrick hosted the Awards Reception at her residence and presented the award for the "Best Complaints ICP Officer 2013" to Mr. Joseph Woods of the Port Authority.

The award for the the "Most Improved ICP Officer 2013" was presented to Ms. Tracy Ebanks of the Cayman Islands Development Bank by Ms. Tamara Y. Ebanks, Deputy Chief Officer of the Ministry of Financial Services, Commerce and Environment who was the previous year's recipient.

Her Excellency The Governor, Helen Kilpatrick along with the Hon. Deputy Governor, Mr. Franz Manderson and Mr. Joseph Wood of the Port Authority who was awarded as "The Best Complaints ICP Officer for 2013"

Mr. Joseph Wood, Complaints Commissioner, Ms. Nicola Williams and Mrs. Tracy Ebanks of the Cayman Islands Development Bank who was awarded as "Most Improved ICP Officer for 2013"

The OCC Continues to monitor the work of seventy-four (74) Government Entities on a quarterly basis. Each quarter an ICP Quarterly Report is submitted by the Entities. The OCC has witnessed a remarkable improvement in the handling of complaints by most ICP Managers.

16. *Performance Targets 2013–14*

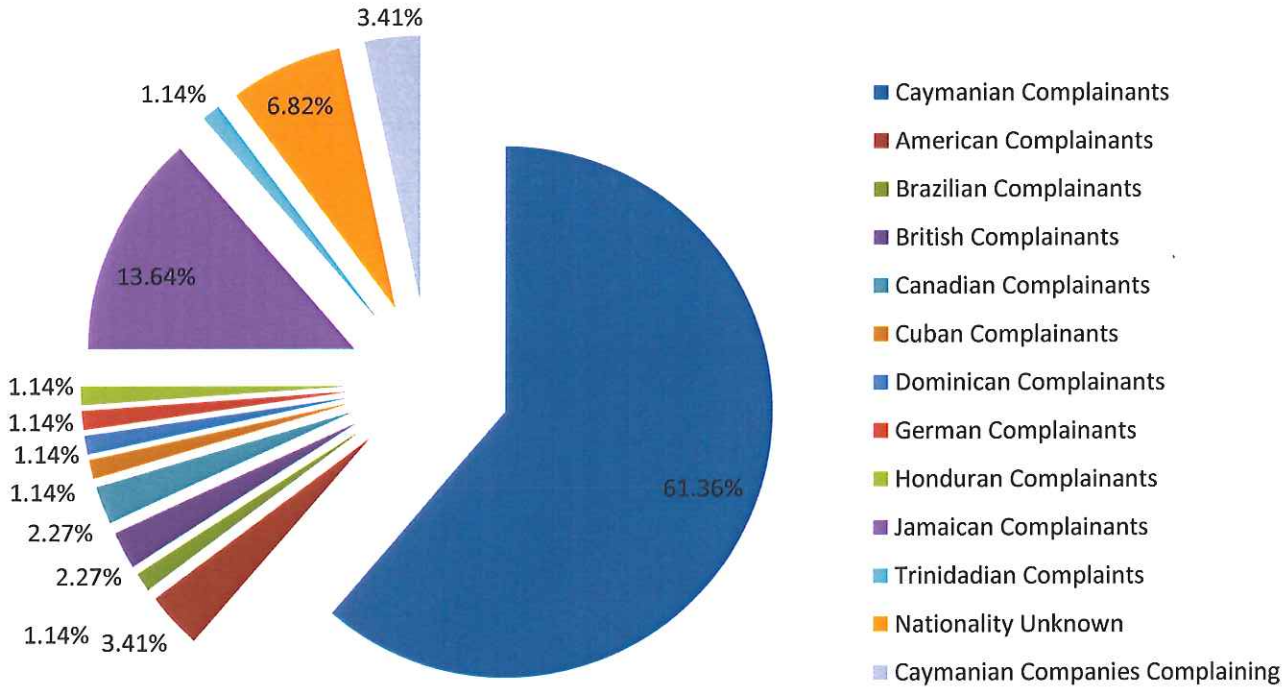
16. STATISTICS INDICATING IN DETAIL THE WORK COMPLETED ARE SET OUT IN APPENDIX B

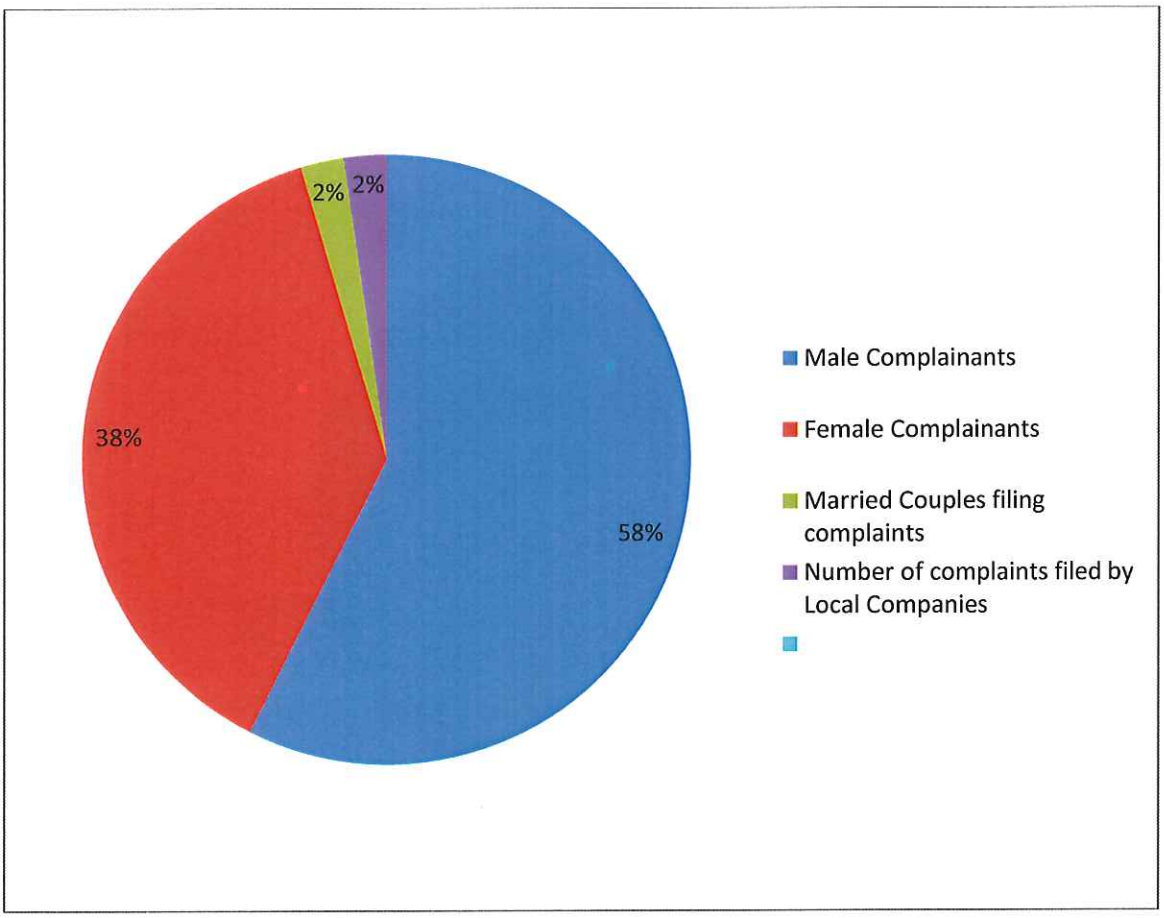
APPENDIX B

DEMOGRAPHICS OF THE VARIOUS NATIONALITIES OF COMPLAINANTS SERVED BY THE OCC DURING THE 2013-14 FISCAL YEAR.

Caymanian Complainants = 54	Canadian Complainants = 2	Jamaican Complainants = 12
Caymanian Companies = 3	Cuban Complainants = 1	Trinidadian Complainants = 1
Complaints from the United States of America = 3	Dominican Complainants = 1	Complainants whose Nationality is Unknown = 6
Brazilian Complainants = 1	German Complainants = 1	
British Complainants = 2	Honduran Complainants = 1	Total = 87

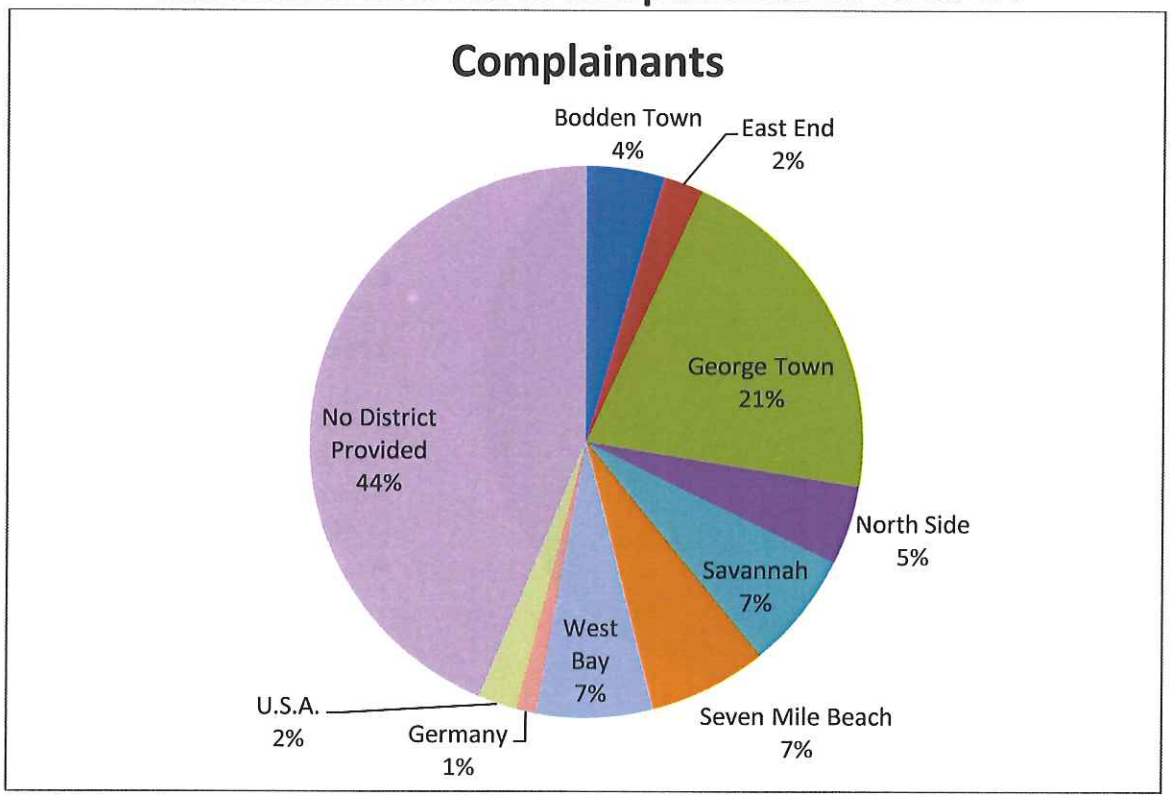
Complaints Commission
Chart of Nationalities of Complainants for 2013-14
regarding Written Complaints





Gender of Complainants Filing Complaints in 2013-14

Residential Districts of Complainants for 2013-14



Summary of Performance

Output Performance

Sub-Output No. 1	Details of Sub-Output	Target 2013-14	Results 2013-14
1	Answers to enquiries made in office, Complaints referred to Internal Complaints Processes (ICP's) and ICP's Monitored	200-350	115
2	Investigations of residents' complaints	30-60	44
3	Public-interest investigations	1-3	2

Sub- Output	Details of Sub-Output	Target 2013-14	Results 2013-14
1	Monitoring of recommendations made	20-50	24
2	Special Reports to Legislative Assembly re: failure to comply with recommendations made or reporting misconduct	1-3	0 [i]

[i] No Special Report was done for the Fiscal Year 2013-14 as the OCC only prepares a Special Report if the Commissioner sees that a government entity is making no attempts to comply with Recommendations made to the entity. Recommendations are normally monitored for a year for compliance prior to a Special Report being prepared. During the Fiscal Year 2012-13 the Commissioner saw that government entities were trying to comply with Recommendations made by the OCC therefore there were no reasons to warrant a Special Report.

Sub-Output No. 3	Details of Sub-Output	Target 2013-14	Result 2013-14
1	Number of Meetings attended to provide strategic advice	1-4	3
2	Number of Reports including Statistical Information	1-4	4

Sub-Output No. 4	Details of Sub-Output	Target 2013-14	Result 2013-14
1	Number of ACC Meetings attended	1-5	2
2	Number of ACC Investigations	1-5	Information not available
3	Statistical information on ACC Investigations	1-5	Information not available

Appendix C

Financial Statements of
the Office of the Complaints Commissioner
for the Year ended 30 June 2014

GOVERNMENT OF THE CAYMAN ISLANDS

Office of the Complaints Commissioner

FINANCIAL STATEMENTS

30 JUNE 2014

GOVERNMENT OF THE CAYMAN ISLANDS

Office of the Complaints Commissioner

FINANCIAL STATEMENTS

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Office of the Complaints Commissioner

Financial Statements for the year ended 30 June 2014

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STATEMENT OF RESPONSIBILITY FOR THE FINANCIAL STATEMENTS

These financial statements have been prepared by the Office of the Complaints Commissioner in accordance with the provisions of the *Public Management and Finance Law (2013 Revision).*

We accept responsibility for the accuracy and integrity of the financial information in these financial statements and their compliance with the *Public Management and Finance Law (2013 Revision).*

As Chief Officer I am responsible for establishing; and have established and maintained a system of internal controls designed to provide reasonable assurance that the transactions recorded in the financial statements are authorised by law, and properly record the financial transactions of the Office of the Complaints Commissioner.

As Chief Officer and Chief Financial Officer we are responsible for the preparation of the Office of the Complaints Commissioner financial statements, representation and judgments made in these statements.

The financial statements fairly present the Financial Position, Financial Performance and Cash Flows for the financial year ended 30 June 2014.

To the best of our knowledge we represent that these financial statements:

(a) Completely and reliably reflect the financial transactions of Office of Complaints Commissioner for the year ended 30 June 2014;
(b) fairly reflect the financial position as at 30 June 2014 and performance for the year ended 30 June 2014;
(c) comply with International Public Sector Accounting Standards as set out by International Public Sector Accounting Standards Board under the responsibility of the International Federation of Accountants.

The Office of the Auditor General conducts an independent audit and expresses an opinion on the accompanying financial statements which is carried out by its agent. The Office of the Auditor General and its agent has been provided access to all the information necessary to conduct an audit in accordance with International Standards on Auditing.

Ms. Nicola Williams
Chief Officer

Date - October 31, 2014

Ms. Kim France
Chief Financial Officer

Date - October 31, 2014

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CAYMAN ISLANDS

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AUDITOR GENERAL'S REPORT

To the Complaints Commissioner and the Members of the Legislative Assembly

I have audited the accompanying financial statements of the Office of the Complaints Commissioner, which comprise the statement of financial position as at 30 June 2014, and the statements of financial performance, cash flows, and changes in net assets/equity for the year then ended and a summary of significant accounting policies and other explanatory information as set out on pages 5 to 20 in accordance with the Section 60(a)(i) of the *Public Management and Finance Law (2013 Revision)*.

Management's Responsibility for the Consolidated Financial Statements
Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility
My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for my audit opinion. In rendering my audit opinion on the financial statements of the Office of the Complaints Commissioner, I have relied on the work carried out on my behalf by a public accounting firm who performed their work in accordance with International Standards on Auditing.

AUDITOR GENERAL'S REPORT (continued)

Opinion

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Office of the Complaints Commissioner as at 30 June 2014 and of its financial performance and its cash flows for the year then ended in accordance with International Public Sector Accounting Standards.

Alastair Swarbrick, MA(Hons), CPFA
Auditor General

31 October 2014
Cayman Islands

OFFICE OF THE COMPLAINTS COMMISSIONER
STATEMENT OF FINANCIAL POSITION
FOR THE YEAR ENDED 30 JUNE 2014
(Expressed in Cayman Islands Dollars)

Prior Year Actual CI$000		Note	Current Year Actual CI$000	Approved Budget CI$000	Variance (Budget vs. Actual) CI$000
	Current Assets				
1,055	Cash and cash equivalents	2, 14	209	1,061	852
57	Receivables from exchange transactions	3, 14	127	62	(65)
7	Prepayments		14	7	(7)
1,119	**Total Current Assets**		**350**	**1,130**	**780**
	Non-Current Assets				
6	Property, plant and equipment	4	23	26	3
6	**Total Non-Current Assets**		**23**	**26**	**3**
1,125	**Total Assets**		**373**	**1,156**	**783**
	Current Liabilities				
15	Payables under exchange transactions, other payables and accruals	5	25	20	(5)
4	Employee entitlements	6	16	5	(11)
969	Surplus payable	7, 14	174	969	795
988	**Total Current Liabilities**		**215**	**994**	**779**
988	**Total Liabilities**		**215**	**994**	**779**
137	**Net Assets**		**158**	**162**	**4**
	Net Assets/Equity				
137	Contributed capital		158	162	4
-	Accumulated surpluses		-	-	-
-			-	-	-
137	**Total Net Assets/Equity**		**158**	**162**	**4**

The accounting policies and notes on pages 9 -20 form part of these financial statements.

OFFICE OF THE COMPLAINTS COMMISSIONER
STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2014
(Expressed in Cayman Islands Dollars)

Prior Year Actual CI$000		Note	Current Year Actual CI$000	Approved Budget CI$000	Variance (Budget vs. Actual) CI$000
	Revenue				
695	Sale of goods and services	8	740	740	-
695	**Total Revenue**		**740**	**740**	**-**
	Expenses				
433	Personnel costs	9, 14	451	487	36
180	Supplies and consumables	10, 14	191	248	57
2	Depreciation	4	4	5	1
615	**Total Expenses**		**646**	**740**	**94**
80	**Surplus for the period**		**94**	**-**	**94**

The accounting policies and notes on pages 9 -20 form part of these financial statements.

OFFICE OF THE COMPLAINTS COMMISSIONER
STATEMENT OF CHANGES IN NET ASSETS/EQUITY
FOR THE YEAR ENDED 30 JUNE 2014
(Expressed in Cayman Islands Dollars)

	Contributed Capital CI$000	Accumulated Surplus CI$000	Total Net Assets/Equity CI$000	Approved Budget	Variance (Budget vs. Actual)
Balance at 30 June 2012	137	-	137	137	-
Surplus for the period (2012/13)	-	80	80	-	(80)
Repayment of surplus to Cabinet	-	(80)	(80)	-	80
Balance at 30 June 2013	**137**	**-**	**137**	**137**	**-**
Balance at 30 June 2013	137	-	137	137	-
Equity Investment	21	-	21	25	4
Surplus for the period (2013/14)	-	94	94	-	(94)
Repayment of surplus to Cabinet	-	(94)	(94)	-	94
Balance at 30 June 2014	**158**	**-**	**158**	**162**	**4**

The accounting policies and notes on pages 9 -20 form part of these financial statements.

OFFICE OF THE COMPLAINTS COMMISSIONER
CASH FLOW STATEMENT
FOR THE YEAR ENDED 30 JUNE 2014
(Expressed in Cayman Islands Dollars)

Prior Year Actual CI$000		Note	Current Year Actual CI$000	Approved Budget CI$000	Variance (Budget vs. Actual) CI$000
	CASH FLOWS FROM OPERATING ACTIVITIES				
	Receipts				
695	Outputs to Cabinet		670	735	65
	Payments				
(438)	Personnel costs		(438)	(486)	(48)
(182)	Supplies and consumables		(189)	(243)	(54)
75	**Net cash flows from operating activities**	11	**43**	**6**	**(37)**
	CASH FLOWS FROM INVESTING ACTIVITIES				
-	Purchase of property, plant and equipment		(21)	(25)	(4)
-	**Net cash flows from investing activities**		(21)	(25)	(4)
	CASH FLOWS FROM FINANCING ACTIVITIES				
-	Equity Investment		21	25	4
-	Repayment of surplus		(889)	-	889
-	**Net cash flows from financing activities**		(868)	25	893
75	**Net increase/(decrease) in cash and cash equivalents**		(846)	6	852
980	Cash and cash equivalents at beginning of period		1,055	1,055	-
1,055	**Cash and cash equivalents at end of period**		**209**	**1,061**	**852**

The accounting policies and notes on pages 9 -20 form part of these financial statements.

OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2014
(Expressed in Cayman Islands Dollars)

Description and principal activities

The Office of the Complaints Commissioner ("OCC") is a government owned entity as defined by section 2 of the Public Management and Finance Law (2013 Revision) and it is domiciled in the Cayman Islands.

Its principal activities and operations include all activities carried out in terms of the outputs purchased by the office of the Complaints Commissioner as defined in the Annual Plan and Estimates for the Government of Cayman Islands for the financial year ending 30 June 2014.

The principal office of the Complaints Commissioner is located at Anderson Square 4th Floor, George Town, Grand Cayman. As at 30 June 2014, the office of the Complaints Commission had 5 employees (2013: 5).

Note 1: Significant Accounting Policies

These financial statements have been prepared in accordance with International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants and its International Public Sector Accounting Standards Board using the accrual basis of accounting. Where additional guidance is required, International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board are used.

The accounting policies set out below have been applied consistently to all periods presented in these financial statements. There have been no significant changes to the accounting policies during the year ended 30 June 2014.

(a) Basis of Preparation
These financial statements have been prepared on a going concern basis and the accounting policies set out below have been applied consistently to all periods presented. The financial statements are presented in Cayman Islands dollars and the measurement base applied to these financial statements is the historical cost basis.

(b) Reporting Period
The reporting period is the year ended 30 June 2014.

(c) Budget Amounts
The 2013/14 final/original budget amounts were prepared using the accrual basis of accounting and the accounting policies have been consistently applied with the actual financial statement presentation. The 2013/14 original budget was presented in the 2013/2014 Annual Budget Statement of the Government of the Cayman Islands and approved by the Legislative Assembly 23 October 2013. There have been no subsequent adjustments to the approved budget and therefore this represents the final budgeted amounts.

Note 1: Significant Accounting Policies (continued)

(d) Judgments and Estimates

The preparation of financial statements is in conformity with International Public Sector Accounting Standards that requires judgments, estimates, and assumptions affecting the application of policies and reported amounts of assets and liabilities, revenue and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. The account balances that require judgement are receivables from exchange transactions, property, plant and equipment and depreciation. Actual results may differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the reporting period and in any future periods that are affected by those revisions. As at 30 June 2014, no reliable fair value estimate of contributed goods and services provided to OCC by government entities could be made and therefore no estimate of amounts are recorded in these financial statements (2013: $0).

(e) Revenue

Revenue is recognised in the accounting period in which it is earned. Revenue received but not yet earned at the end of the reporting period is recognised as a liability (unearned revenue).

The Office of the Complaints Commissioner derives its revenue through the provision of services to Cabinet, to other agencies in government and to third parties. Revenues derived from third parties in 2014 was zero (2013: $0). Revenue is recognised at fair value of services provided.

(f) Expenses

Expenses are recognised when incurred on the accrual basis of accounting. In addition, an expense is recognized for the consumption of the estimated fair value of contributed goods and services received, where an estimate can realistically be made.

(g) Operating Leases

Leases where a significant portion of the risks and rewards of ownership are retained by the lessor are classified as operating leases. Payments made under the operating leases are recognised as expenses on a straight-line basis over the lease term.

(h) Cash and Cash Equivalents

Cash and cash equivalents include cash on hand, cash in-transit and bank accounts with a maturity of no more than three months from the date of acquisition.

(i) Prepayments

The portion of amount paid for goods and services in advance of receiving such goods and services are recognised as prepayment.

Note 1: Significant Accounting Policies (continued)

(j) Property, Plant and Equipment

Property, plant and equipment is stated at historical cost less accumulated depreciation. Items of property, plant and equipment are initially recorded at cost. Where an asset is acquired for nil or nominal consideration, the asset is recognized initially at fair value, where fair value can be reliably determined, and as revenue in the Statement of Financial Performance in the year in which the asset is acquired.

Depreciation is expensed on a straight-line basis at rates calculated to allocate the cost or valuation of an item of property, plant and equipment (other than land); less any estimated residual value, over its estimated useful life. Leasehold improvements are depreciated either over the unexpired period of the lease or the estimated useful lives of the improvements, whichever is shorter.

Asset Type	*Estimated Useful life*
• Computer Equipment	3 – 4 years
• Office equipment and furniture	5 – 10 years
• Other equipment	5 – 10 years

The assets residual values and useful lives are reviewed, and adjusted if appropriate, at year end. Assets that are subject to depreciation are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amounts. The recoverable amount is the higher of the asset's fair value less costs to sell and its value for use in service.

Disposals

Gains and losses on disposals of property, plant and equipment are determined by comparing the sale proceeds with the carrying amount of the asset. Gains and losses on disposals during the year are included in the Statement of Financial Performance.

(k) Employee Benefits

Employee entitlements to salaries and wages, annual leave, long service leave, retiring leave and other similar benefits are recognised in the Statement of Financial Performance when they are earned by employees. Employee entitlements to be settled within one year following the year-end are reported as current liabilities at the amount expected to be paid.

Pension contributions for employees of the Office are paid to the Public Service Pension Fund and administered by the Public Service Pension Board (the "Board"). Contributions of 12.384% on basic - employer 6.192% and employee 6.192% - are made to the Fund by the Complaints Commission. Contributions of 12% on acting, duty allowances – employer 6% and employee 6% - are made to the Fund by the OCC.

Note 1: Significant Accounting Policies (continued)

(k) Employee Benefits (continued)
Prior to 1 January 2000, the Board operated a defined benefit scheme. With effect from 1 January 2000 the Board continued to operate a defined benefit scheme for existing defined benefit employees and a defined contribution scheme for all new employees. Obligations for contribution to defined contribution retirement plans are recognised in the Statement of Financial Performance as they are earned by employees. Obligations for defined benefit retirement plans, are reported in the Consolidated Financial Statements for the Entire Public Sector of the Cayman Islands Government.

(l) Financial Instruments
The Office of the Complaints Commissioner is party to financial instruments as part of its normal operations. These financial instruments include cash and cash equivalents, receivables from exchange transactions and payables under exchange transactions, and surplus payable all of which are recognised in the Statement of Financial Position.

Classification
A financial asset is classified as any asset that is cash, a contractual right to receive cash or another financial asset, exchange financial instruments under conditions that are potentially favourable. Financial assets comprise of cash and cash equivalents and receivables from exchange transactions.

A financial liability is any liability that is a contractual obligation to deliver cash or another financial asset or to exchange financial assets with another enterprise under conditions that are potentially unfavourable. Financial liabilities comprise of payables under exchange transactions other payables and surplus payable.

Recognition
The Office of the Complaints Commissioner recognises financial assets and financial liabilities on the date it becomes party to the contractual provisions of the instrument. From this date, any gains and losses arising from changes in fair value of the assets and liabilities are recognised in the statements of financial performance.

Measurement
Financial instruments are measured initially at cost which is the fair value of the consideration given or received. Subsequent to initial recognition all financial assets are recorded at historical cost, which is considered to approximate fair value due to the short-term or immediate nature of these instruments.

Financial liabilities are subsequently measured at amortised cost, being the amount at which the liability was initially recognised less any payment plus any accrued interest of the difference between that initial amount and the maturity amount.

De-recognition
A financial asset is de-recognised when the Office of the Complaints Commission realises the rights to the benefits specified in the contract or loses control over any right that comprise that asset. A financial liability is derecognised when it is extinguished, that is when the obligation is discharged, cancelled, or expired.

Note 1: Significant Accounting Policies (continued)

(m) Contingent Liabilities and Assets

Provisions are recognised when an obligation (legal or constructive) is incurred as a result of a past event and where it is probable that an outflow of assets embodying economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Contingent liabilities are not recognised but are disclosed in the financial statements unless the possibility of an outflow of resources embodying economic benefits is remote. Contingent assets are recognised but are disclosed in the financial statements when an outflow of economic benefits is probable that the benefits will be realised.

(n) Foreign Currency

Foreign currency transactions are recorded in Cayman Islands dollars using the exchange rate in effect at the date of the transaction. Foreign currency gains or losses resulting from settlement of such transactions are recognised in the Statement of Financial Performance.

At the end of the reporting period the following exchange rates are to be used to translate foreign currency balances:

- Foreign currency monetary items are to be reported in Cayman Islands dollars using the closing rate;
- Non-monetary items which are carried in terms of historical cost denominated in a foreign currency are reported in Cayman Islands dollars using the exchange rate at the date of the transaction; and
- Non-monetary items that are carried at fair value denominated in a foreign currency are reported using the exchange rates that existed when the fair values were determined.

(o) Comparative Figures

Comparative figures are restated to ensure consistency with the current period unless it is impracticable to do so.

(p) Revenue from Non-Exchange Transactions

OCC receives various services from other government entities for which payment is made by the Cayman Islands Government. These services include but are not limited to computer repairs and software maintenance by the Computer Services Department and human resources management by the Portfolio of the Civil Service. OCC has designated these non-exchange transactions as Services in-Kind as defined under IPSAS 23 - Revenue from Non-Exchange Transactions. When fair values of such services can be reliably estimated then the non-exchange transaction is recorded as an expense and an equal amount is recorded in other income as a service in-kind. Where services in-kind offered are directly related to construction or acquisition of a property, plant and equipment, such service in-kind is recognized in the cost of property, plant and equipment.

Note 1: Significant Accounting Policies (continued)

(q) Impairment

An asset is impaired when its carrying amount exceeds its recoverable amount. If there is any indication of impairment present, the entity is required to make a formal estimate of recoverable amount.

Note 2: Cash and cash equivalents

Cash and cash equivalents include cash on hand and bank accounts in the name of the Office of the Complaints Commissioner. As at 30 June 2014 the Office of the Complaints Commissioner held no restricted cash balances (30 June 2013: $0). No interest was earned during the year on the amounts held in these bank accounts (30 June 2013: $0)

Prior Year Actual	Description	Current Year Actual
CI$000		CI$000
1,029	CI$ Operational Current Account	190
26	Payroll Current Account	19
1,055	**Total**	**209**

Note 3: Receivables from exchange transactions

Prior Year Actual	Receivables from exchange transactions	Current Year Actual	Approved Budget	Variance (Budget vs. Actual
CI$000		CI$000	CI$000	CI$000
57	Sale of outputs to Cabinet	127	62	(65)
57	**Total receivables from exchange transactions**	**127**	**62**	**(65)**

	Receivables from exchange transactions	Prior Year Impairment	Net	Gross amount	Current Year
	CI$000	CI$000	CI$000	CI$000	CI$000
Current	-	-	-	-	-
Past due 1-30 days	127	-	127	-	127
Total	127	-	127	-	127

As of June 30, 2014, receivable from exchange transactions are all due within one year.

OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS CONTINUED
FOR THE YEAR ENDED 30 JUNE 2014
(Expressed in Cayman Islands Dollars)

Note 4: Property, plant and equipment

	2013			
	Furniture and fittings $000	Computer hardware and software $000	Office equipment $000	Total $000
Cost				
At July 1, 2012	12	31	14	57
Additions	-	-	-	-
At June 30, 2013	12	31	14	57
Accumulated depreciation				
At July 1, 2012	6	29	14	49
Depreciation charge for the year	1	1	-	2
At June 30, 2013	7	30	14	51
Net book value at June 30, 2013	**5**	**1**	**-**	**6**

	2014			
	Furniture and fittings $000	Computer hardware and software $000	Office equipment $000	Total $000
Cost				
At July 1, 2013	12	31	14	57
Additions	-	7	14	21
At June, 2014	12	38	28	78
Accumulated depreciation				
At July 1, 2013	7	30	14	51
Depreciation charge for the year	1	1	2	4
At June 30, 2014	8	31	16	55
Net book value at June 30, 2014	**4**	**7**	**12**	**23**

Note 5: Payables under exchange transactions, other payables and accruals

Prior Year Actual CI$000		Current Year Actual CI$000	Approved Budget CI$000	Variance (Budget vs. Actual CI$000
-	Creditors	20	15	(5)
11	Creditors Ministries/Portfolios	-	5	5
4	Accrued Expenses	5	-	(5)
15	**Total payables under exchange transactions, other payables and accruals**	**25**	**20**	**(5)**

Payables under exchange transactions and other payables are non-interest bearing and are normally settled on 30-day terms.

Note 6: Employee entitlements

Prior Year Actual CI$000		Current Year Actual CI$000	Approved Budget CI$000	Variance (Budget vs. Actual CI$000
	Current employee entitlements are represented by:			
4	Annual Leave	16	5	(11)
4	Total current portion	16	5	(11)
4	**Total employee entitlements**	**16**	**5**	**(11)**

The retirement and long-service leave entitlements are calculated based on current salary paid to those employees who are eligible for this benefit.

Note 7: Surplus payable

Surplus payable represents accumulated surplus of $174 thousand as at June 30, 2014 (2013: $969 thousand). Under the *Public Management & Finance Law (2013 Revision)* section 39 (3)(f), the Portfolio may "retain such part of its net operating surplus as is determined by the Financial Secretary". Therefore, the Portfolio has booked a surplus payable to Government in the amount of $94 thousand as of June 30, 2014 as the Financial Secretary has not confirmed whether the Portfolio can retain the surplus achieved during this year and the prior year. During the year ended June 30, 2014 the Portfolio paid to Cabinet surplus payable in the amount of $889 thousand.

OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS CONTINUED
FOR THE YEAR ENDED 30 JUNE 2014
(Expressed in Cayman Islands Dollars)

Note 8: Revenue

Prior Year Actual	Revenue type	Current Year Actual	Approved Budget	Variance (Budget vs. Actual
CI$000		CI$000	CI$000	CI$000
695	Outputs to Cabinet	740	740	-
695	**Total sales of goods and services**	740	740	-

Note 9: Personnel costs

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs Actual)
CI$000		CI$000	CI$000	CI$000
372	Salaries, wages and allowances	387	398	11
40	Health care	43	60	17
21	Pension	20	23	3
-	Other	1	6	5
433	**Total Personnel Costs**	**451**	**487**	**36**

Note 10: Supplies and consumables

Prior Year Actual CI$000	Description	Current Year Actual CI$000	Approved Budget CI$000	Variance (Budget vs. Actual CI$000
75	Lease of property, and equipment	75	75	0
19	Purchase of services	40	64	24
32	Utilities	33	39	6
12	Supplies and materials	15	18	3
13	Interdepartmental expenses	15	15	0
10	Training	10	20	10
15	Travel and subsistence	3	16	13
4	Other	-	1	1
180	**Total Supplies & consumables**	**191**	**248**	**57**

Note 11: Reconciliation of net cash flows from operating activities to surplus

Actual Prior year	Description	Actual Current year	Approved Budget	Variance (Budget vs. Actual)
CI$000		CI$000	CI$000	CI$000
80	**Surplus from ordinary activities**	94	-	(94)
	Non-cash movements			
2	Depreciation expense	4	5	1
	Changes in current assets and liabilities:			
-	Increase in receivables	(70)	(5)	65
(1)	Increase in prepayments	(7)	-	7
(6)	Decrease/(Increase) in payables	22	6	(16)
75	Net cash flows from operating activities	**43**	**6**	**(37)**

Note 12: Contingent liabilities and assets

No continent liabilities or assets existed as at June 30, 2014.

Note 13: Commitments

The office of the Complaints Commissioner is presently on a month to month lease.

Note 14: Explanation of major variances against budget

Explanations for major variances for the Office of the Complaints Commissioner performance against the original budget are as follows:

Statement of Financial Position

Cash and cash equivalents
During the year the Office of the Complaints Commissioner repaid to Cabinet a surplus payable amount of $889 thousand. The budgeted figure did not include this repayment and hence the main reason for the decrease in the actual year-end cash balances by $852 thousand.

Note 14: Explanation of major variances against budget (continued)

Receivables from exchange transactions
Actual year-end receivables represent two months outputs due from cabinet as opposed to the one month included in the budget.

Surplus payable
See cash and cash equivalents above.

Statement of Financial Performance

Personnel costs
The net decrease in personnel costs of $36 thousand is primarily due to the filling of budgeted positions later than anticipated in the budget. However this was partially offset by the honorarium paid to all civil servants during the year.

Supplies and consumables
The net decrease of $57 thousand to budget is primarily due to the decreases in professional fees, official travel, and training. Professional fees are budgeted as contingencies and are expected to vary each year.

Note 15: Related party and key management personnel disclosures

Related party disclosure
The Office of the Complaints Commissioner is a wholly owned entity of the government from which it derives a major source of its revenue. The Office of the Complaints Commissioner and its key management personnel transact with other government entities on a regular basis. These transactions were provided in kind during the financial year ended 30 June 2014 and were consistent with normal operating relationships between entities and were undertaken on terms and conditions that are normal for such transactions.

Key management personnel
Key management personnel are also considered to be related parties.

There is one full-time equivalent personnel considered as key management personnel. The total remuneration includes: regular salary, allowances, pension contributions and health insurance contributions. Total remuneration for senior management in 2013-14 was $137 thousand (2012-13: $126 thousand). There were no loans made to key management personnel or their close family members in 2013-14 (2012-13: $0).

Note 16: Financial instrument risks

The Office of the Complaints Commissioner is exposed to a variety of financial risks including credit risk and liquidity risk. The risk management policies are designed to identify and manage these risks, to set appropriate risk limits and controls, and to monitor the risks and adhere to limits by means of up to date and reliable information systems. These risks are managed within the parameters established by the Financial Regulations (2013 Revision).

Credit risks
Credit risk refers to the risk that a counterparty will default on its contractual obligations resulting in financial loss to the Office of the Complaints Commissioner. Financial assets which potentially expose the Office of the Complaints Commissioner to credit risk comprise cash and cash equivalents and receivables from exchange transactions.

The Office of the Complaints Commissioner is exposed to potential loss that would be incurred if the counterparty to the bank balances fails to discharge its obligation to repay. All bank balances are with one financial institution located in the Cayman Islands which management, considers to be financially secure and well managed.

Liquidity risk
Liquidity risk is the risk that the Office of The Complaints Commissioner is unable to meet its payment obligations associated with its financial liabilities when they are due.

The ability of the Office of the Complaints Commissioner to meet its debts and obligation is dependent upon its ability to collect the debts outstanding to the Office of The Complaints Commissioner in a timely basis. In the event of being unable to collect its outstanding debts, it is expected that the Government would temporarily fund any shortfalls the Office of the Complaints Commissioner would have with its own cash flows. As at 30 June 2014 and 2013, all of the financial liabilities were due within three months of the year end dates.

Note 17: Financial instruments – fair values

As at 30 June 2014 and 2013, the carrying values of cash and cash equivalents, receivables from exchange transactions, payables under exchange transactions, other payables, surplus payable and employee entitlements approximate their fair values due to their relative short-term maturities.

Fair values are made at a specific point in time, based on market conditions and information about the financial instrument. These estimates are subjective in nature and involve uncertainties and matters of significant judgment and therefore cannot be determined with precision. Changes in assumptions, economic conditions and other factors could cause significant changes in fair value estimates.