



**Annual Report
Of**

Office of the Complaints Commissioner

For the 2014-2015 Financial Year

Annual Report 2014–2015

Eighth Annual Report of the Office of the Complaints
Commissioner of the Cayman Islands addressing the Fiscal Year
July 2014–June 2015



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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20 May 2015

By Hand

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

Dear Madam Speaker,

Re: OCC Annual Report 2014-15

I am pleased to submit my Annual Report for the period of 1 July 2014 to 30 June 2015, 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. D. 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 2014-15 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 July 2014 the OCC celebrated its 10th Anniversary. The Office celebrated this significant milestone along with the public throughout the three islands, by first travelling to Cayman Brac on Tuesday, 8 July 2014 for Public Education Outreach. This began with a presentation to government officials during the day, and a cocktail party in the evening for the public, allowing the Commissioner and staff members to meet and greet persons while promoting the work of the OCC. The following day, the Commissioner and an investigator travelled to Little Cayman where they met with the District Officer and persons within the community to speak of the OCC's work. On Thursday, 10 July 2014 the OCC held an "Open House" inviting the public to visit our Office, meet the Commissioner and Staff and get to know the work of the OCC and the complaints procedure. Many members of the public and of Parliament visited the Office and met with the Commissioner and staff. This was followed in the evening by a cocktail party at Edoardo's Restaurant, where a short presentation was shown on the work of the OCC. A new section has been added to this Report, highlighting contributions to the community during these past 10 years as a result of OCC recommendations.

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

In 2014-15 we referred 28 complaints to the Internal Complaints Processes as they were premature to the OCC with other avenues still being available to the complainants for resolution, completed 96 investigations with findings (5 of which were brought forward from the previous fiscal year 2013-14), and carried forward 9 ongoing investigations into the new fiscal year 2015-16. The lack of enquires are attributed to the fact that the public is now familiar with matters which are non-jurisdictional to the office, as enquiries involve complaints outside of the OCC's jurisdiction.

There were 28 recommendations brought forward from 2013-14, along with five recommendations made during this period which were monitored. Five 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 proof that the government entities are working towards complying with other outstanding recommendations.

We are happy to note that local confidence in the work of the office continues to grow, and during the 2014-15 Fiscal Year, 82% of complaints received were from Caymanians and Caymanian owned companies.

As customary, the highest number of complaints (28) was filed by residents residing in George Town. Our Investigators continued to visit Cayman Brac and Little Cayman to address complaints from the Sister Islands to ensure that they are not overlooked, and during the fiscal year 3 complaints were filed by residents of these Islands.

The OCC's budget for the 2014-15 year was \$767,000 and as always we were very prudent in our spending.

2. Acting Commissioner's Message



**Acting Complaints Commissioner,
Mrs. Bridgette Lazzari-von Gerhardt**

The Fiscal Year 2014-15 was a very active and fruitful year for the OCC, particularly in the areas of:

- Investigations
- Monitoring of Recommendations
- Training and Development
- 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.

Investigations – During the 2014-15 Fiscal Year public confidence in the Office continued to climb and the OCC completed 88 investigations with findings. Taking into consideration that the OCC has a small staff compliment of 6, with two full time investigators only, this is quite an accomplishment as investigations can be quite technical and time consuming, with some investigations taking from 6 – 10 months to be completed. The OCC staff works diligently to ensure that investigations are carried out in a fair and unbiased manner, and within a reasonable timeframe.

Monitoring – The OCC monitored 33 Recommendations made as a result of Own Motion Investigations launched by the Commissioner into areas of public interest, and also complaints filed by the public in regards to mal-administration. Compliance of recommendations may require years often, due to required changes to legislation etc. but the OCC meets with government entities involved on a quarterly basis to encourage, and assist with such compliance.

Training – The OCC is committed to the training of all staff at least annually in order to ensure that all are well prepared to assist the office in carrying out the mandate of the Commission. The OCC staff received training in advanced investigative training in August 2014, by Mr. Gareth Jones, Director of the Special Ombudsman Response Team at the Ombudsman of Ontario, Canada. This training covered a period of 4 – 5 days. Other training/staff development will be highlighted in section 5 under Training.

Outreach: Local - I feel it is very important that everyone who resides in the Cayman Islands be aware of who we are as an organization, and what we do. Therefore, during the fiscal year the OCC visited all three of the Cayman Islands to meet with the public, and promote the work of the office, at the same time allowing time for persons to file any complaints they might wish to file in regards to maladministration.

Staffing and Interns – The OCC would be unable to function efficiently without its staff members who contribute greatly to the work carried out by the OCC on an annual basis. During the 2014-15 fiscal year, Commissioner Williams resigned, to take up the new post of Service Complaints Commissioner – Ombudsman for the UK Armed Forces. The Administrative & Investigative Officer, Bridgette Lazzari-von Gerhardt was therefore appointed to act in the interim until a new Complaints Commissioner is appointed. The OCC Team continues to carry out the mandate of the office, ensuring that the public's needs are met in a professional and efficient manner.

Summer Internships - The OCC made a decision to allow two summer internships for the 2014-15 fiscal year due to the excellent academic qualifications of this year's applicants. This allowed two students an opportunity to apply theory and skills learned while studying in the OCC workplace, and also gain experience in regards to the work carried out by the OCC.

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. During the fiscal year the Complaints Commissioner, Ms. Nicola Williams resigned from her post, and her last day in Office was 9 January, 2015. The Administrative & Investigative Officer was then appointed to act in the interim until there is a new Commissioner place.

Complaints Commissioner: Ms. Nicola Williams

Acting Complaints Commissioner + Administrative & Investigative Officer: Mrs. Bridgette Lazzari-von Gerhardt

Chief Financial Officer: Ms. Kim France

Investigators: Mrs. Julie Faulknor-Grant (Senior Investigator)
Mr. Daniel Lee

Executive Assistant to the Commissioner: Ms. Abbey Glasgow

Intake Officer: Mrs. Claudine Simons

5. Training & Staff Development

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 assists 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.

Certificate in Vocational Paralegal Studies

In July 2014, Bridgette Lazzari-von Gerhardt was awarded a Certificate in Vocational Paralegal Studies with Distinction from the Chartered Institute of Legal Executives (CILEx) and the University College of the Cayman Islands after completing her paralegal studies. Completion of this program now certifies her as a paralegal, which greatly assists her in interpreting Laws in her role of Administrative & Investigative Officer and as supervisor of the OCC Investigators.

Advanced Investigative Training

The Cayman Islands' Office of the Complaints Commissioner has had a long established relationship with the Ombudsman of Ontario, as Trainers from that Office came down from Canada to provide training to the staff of the OCC, prior to its doors being opened to the public in December 2004.

In August 2014, Mr. Gareth Jones from the Office of the Ombudsman of Ontario, Canada came to Grand Cayman to conduct advanced investigative training for the staff of the OCC. Mr. Jones is Director of the Special Ombudsman Response Team at Ombudsman Ontario located in Ontario, Canada. He has conducted investigative training at various United Nations agencies and across the world. The training focused on the principles of excellent investigations, investigative planning, investigator safety, and how the internet should be used as an investigative tool. This training allows OCC Investigators to be up to date and skilled on the latest techniques utilized to conduct effective and efficient investigations.



Skills Certificate – University College of the Cayman Islands

In October 2014, Mrs. Claudine Simons, OCC Intake Officer received a Skills Certificate during this fiscal year. Having completed and successfully passed studies in English, Grammar and Spelling.



Civil Service College Course - Ethics in Government

In current times, ethics in government have become not only a subject of vast interest, but also an important area of study in the academic fields of politics and government. Taking into consideration that good administration and good ethical behaviours go hand in hand, It was determined that this course would be of great benefit in regards to the professional development of the Administrative & Investigative Officer who is the line manager of OCC staff members. The course introduced basic concepts, issues, and debates surrounding government ethics. It also discussed the meaning and importance of government ethics, different types of unethical conduct in the context of government, and issues and debates surrounding the establishment of ethical codes in government.

In December 2014, the Administrative & Investigative Officer completed the course with an A and will now offer a short training course to OCC Staff members in regards to ethical conduct, government ethics and why these are valuable.

Mediation Training – London School of Mediation in association with OCC

In December 2014, the London School of Mediation (LSM) in association with the OCC, offered Mediation Training free of charge to 10 civil servants (including 3 staff members of the OCC), and also at a minimum cost to 12 individuals from various private sectors. Funds charged were donated to a local charity, "Feed our Future Cayman". The LSM and OCC plan to offer Modules 2 and 3 of the Mediation Training in November 2015. This Training will allow OCC staff members to become qualified mediators, and have the ability to resolve some issues via mediation instead of complaint investigation, providing another avenue of resolution of complaints, to the people of the Cayman Islands.



Photos above: 1. Mediation Training Group. 2. Mr. Jonathan Dingle, LSM Mediation Training Instructor and Commissioner Williams presenting donations to Mrs. Stacey Van Develde, Chairwoman of "Feed our Future Cayman".

Webinar by World Bank Organisation - Ombudsman Innovations for Advancing Open Government

In January 2015, the Acting Commissioner and all OCC staff members had the opportunity to participate in a webinar training session offered by the World Bank Organisation which shared

the experiences of the Scottish Public Service Ombudsmen including pertinent areas such as data collection, the role of the Complaints Standards Authority (CSA), and the impact of Ombudsman work on public service. OCC staff all agreed that the webinar was highly informative, beneficial and applicable to the work of the OCC.

Freedom of Information – Freedom of Information Unit

OCC Investigator/FOI Manager, Mr. Daniel Lee along with the Executive Assistant/Deputy FOI Manager, Ms. Abbey Glasgow attended JADE (the tracking system used for entering FOI requests) in early February 2015.

The Institute of Public Administration of Canada (IPAC) Conference:

In February 2016, the Acting Commissioner, Mrs. Bridgette Lazzari-von Gerhardt attended the IPAC Conference held in Toronto, Canada. Their mission is to be dedicated to excellence in public service through encouraging high standards of professional practice and service to the public, enhancing the understanding of the public sector, and advocating high values and ideals of public service amongst other pursuits. The former Commissioner recommended that Mrs. Lazzari-von Gerhardt attend this Conference as IPAC is a dynamic association of public servants, academics and others interested in public administration, and she felt that the information gained at the Conference would assist her in gaining a better understanding of Leadership and Government Administration to assist with her Acting Commissioner duties. The Acting Commissioner found the IPAC Conference very informative and educational as it enhanced her understanding of the public service, public administration, and governance as well as the working relationship between elected members of government, chief officers and other members of the civil service. The Conference was therefore of great value to the work of the OCC, as it is the role of the Office to investigate complaints related to maladministration.

Staff Development – International Ombudsman Association

Mr. Daniel Lee, OCC Investigator has been identified by the OCC for succession planning, and as a part of his development plan he attended the International Ombudsman Association (IOA) Annual Conference in Atlanta, Georgia, U.S.A. in April 2015. The Conference which was aimed at new or upcoming Ombudsmen worldwide consisted of interactive and educational forum to increase awareness, knowledge and skills for attendees to become more effective catalysts within their organisation. The vision of IOA is to set standards for excellence in practice while demonstrating the effectiveness of the organisational Ombudsman role to organisational leaders, policy makers, other professions, associations and the public.

Commendation of the OCC Team

As noted earlier above in this Report, the former Complaints Commissioner Ms. Nicola Williams resigned from the post of Commissioner in January 2015, half-way through the fiscal year. This meant that OCC staff members had to take on additional duties in order to carry out the mandate of the Office, and ensure that all work was completed in a timely manner, without any inconvenience to the public of these islands.

Notwithstanding the circumstances that the OCC staff found themselves working under, staff members continue to be dedicated to serving the people of the Cayman Islands by continuing the work of the office, demonstrating their skills and ability in spite of the added responsibilities and stressful circumstances. The Acting Commissioner would like to thank the OCC staff for their willingness to take on these added duties without complaint, their dedication and contribution to the work of the Office, and their kind support to all. The team spirit demonstrated by all OCC staff during this period is a testimony to the fact that the staff members are the Office's greatest assets, and the Acting Commissioner wishes to commend them.



Photo above: OCC Investigation, Mr. Daniel Lee (left) with other attendees at the IOA Annual Conference in Atlanta, Georgia, U.S.A.

8th Regional Biennial Conference of the Caribbean Ombudsman Association (CAROA) and Anti-Corruption Procurement & Integrity Training

In May 2015 the Acting Complaints Commissioner attended the 8th Regional Biennial Conference of the Caribbean Ombudsman Association held in Curacao from the 25th – 26th May 2015. The conference covered a range of topics including: Championing the values of Human Rights, The Pros and Cons of Classical and Hybrid Ombudsman, Resolutions, Corporate Governance and tools to protect and further strengthen the effectiveness and authority of the Ombudsman.

Following the 3 day conference, Anti-Corruption Training was offered by the International Anti-Corruption Academy for 2 days covering Procurement and Integrity. This training was offered to all completely free of charge.



Photo above: Acting Complaints Commissioner (front row, 3rd from the right) with other attendees at the Anti-Corruption Procurement & Integrity Training, Curacao

Executive Certificate in Global Leadership – University of Texas Arlington (UTA) and the University College of the Cayman Islands (UCCI)

In June 2015, the Acting Complaints Commissioner graduated with an Executive Certificate in Global Leadership. She was awarded a 50% scholarship on this course along with 10 other civil servants. The 8 month long course provided participants with the knowledge and skills relevant to global leadership in business, organisations and government. It consisted of a range of business and management topics presented as intensive sessions over a weekend (Friday/Saturday) once every month and commenced October 2014 through May 2015. Such topics covered were: *Global Leadership, Accessing Capital Markets for Global Operations, Developing Strategies for Competitive Advantage, Building High Performance Teams, Management and Organisations, Strategic Accounting and Finance, Issues in International Finance, and Marketing Management.*



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 work in the office of the Ombudsman. It is anticipated that one day, one of our summer interns may return to work full time as a staff member of the OCC.

In June each year the OCC enquires at the Law School and the University College of the Cayman Islands to see if there are persons interested in internship within our office, as summer internships begin in July of each year, and usually concludes at the end of August.

Therefore, in June this year the OCC interviewed interested persons, and due to the high quality of applicants, decided to offer two internships this summer, which allowed two students the opportunity to gain work experience.

In July 2014, Miss Shamique Davis, a student of the University College of the Cayman Islands interned with the OCC.



In August 2014, Miss Lashonda Powell, a first year student at the Truman Bodden Law School interned at the OCC.



During their time with the OCC, both interns gained work experience in such matters as complaint intake, complaint investigation, gathering of statistics, data input in relation to demographics for the fiscal year, and the writing of case samples based on complaints investigated and recommendations made for the fiscal year.

The OCC is delighted for opportunity to assist in the training and development of young Caymanians, who will one day be the leaders of these islands.

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 conducts regular public outreach initiatives.

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 OCC.

Customs Department - In October 2014, Mr. Daniel Lee, OCC Investigator & External Training Officer conducted training for new recruits and senior Customs Officers based on the role and functions of the Office of the Complaints Commissioner.



OCC Open House for George Town District Heritage Day – In November 2014 the OCC held an 'Open House' during Pirates Week's GT District Heritage Day. The OCC welcomed members of the general public to come in, meet the Commissioner and staff members whilst learning about the purpose and functions of the Office.

Professional Development Week – In November 2014 Commissioner Williams was invited to participate as the Key Note Speaker during this year's 'Professional Development Week'.

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 Acting Commissioner, Mrs. Lazzari-von Gerhardt, is bi-lingual and speaks Spanish 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 2014 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

1. Receiving written complaints from the public and determining if they should be investigated.
2. Appointment of mediators to resolve complaints regarding minor matters of maladministration.
3. Investigating written complaints from the public and reporting to the complainant and government entity on the results of the investigation.
4. 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.
5. Referring to the relevant person or entity for their action any evidence of breach of duty, misconduct or criminal offence;
6. Ascertain the inequitable or unreasonable nature or operation of any enactment or rule of law.

7. 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 2014-15 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 2014-15 Budget. There were no amendments to the Complaints Commissioner Law.

The OCC completed 88 complaint investigations in the 2014-15 fiscal year, making it 38 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 the fiscal year in order to continue to increase public awareness. The Quarterly Newsletters continue to increase public awareness of the role of the Office of the Complaints Commissioner.

In house training is conducted annually for the staff at the OCC in order to allow their professional development, and further to this staff development is agreed with staff members 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 former Commissioner and Acting Commissioner also continued to represent the Complaints Commission at the Ombudsmen Association meetings to enhance the OCC's visibility internationally, and continue to develop working relationships with other Ombudsman Offices within the region, allowing the Office to also keep up-to-date with best practices, knowledge and skills.

The Commissioner is a member of the Anti-Corruption Commission [ACC] and she attended various ACC meetings during the year. The Acting Commissioner in her capacity, is also an acting member of the Commission.

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 2014-15 Fiscal Year.

A total of one hundred and five (105) complaints were filed this Fiscal Year and 5 complaint investigations were brought forward from the previous fiscal year 2013-14. The largest number of complainants who filed complaints registering their residential district were from George Town, although an even larger number of complainants forty(40) did not specify their residential district. Fifty-eight (58) complaints were filed by male complainants, thirty-four (34) were filed by females, four (4) complaints were filed by married couples, and nine (9) were not specified.

The number of complaints filed this fiscal year by members of the public seeking assistance from the OCC, demonstrates the credibility of the office within the community. This office is committed to increasing the visibility of the OCC to all socio-economic groups throughout the Cayman Islands.

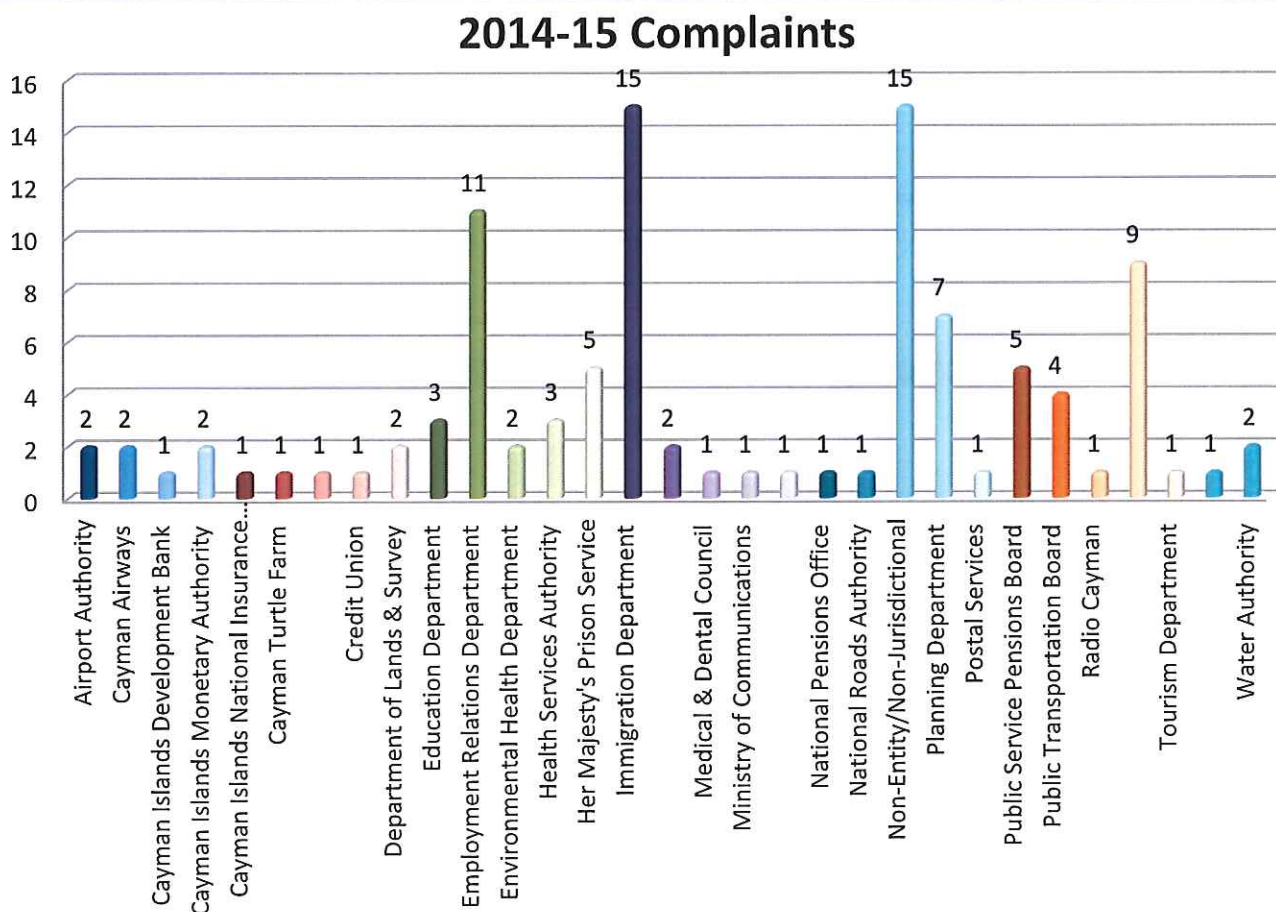


Figure 1: **Complaints Received in 2014-15.** This column graph shows a breakdown of the complaints received by the Office of the Complaints Commissioner during the 14-15 fiscal year.

2013-14 / 2014-15 Complaints

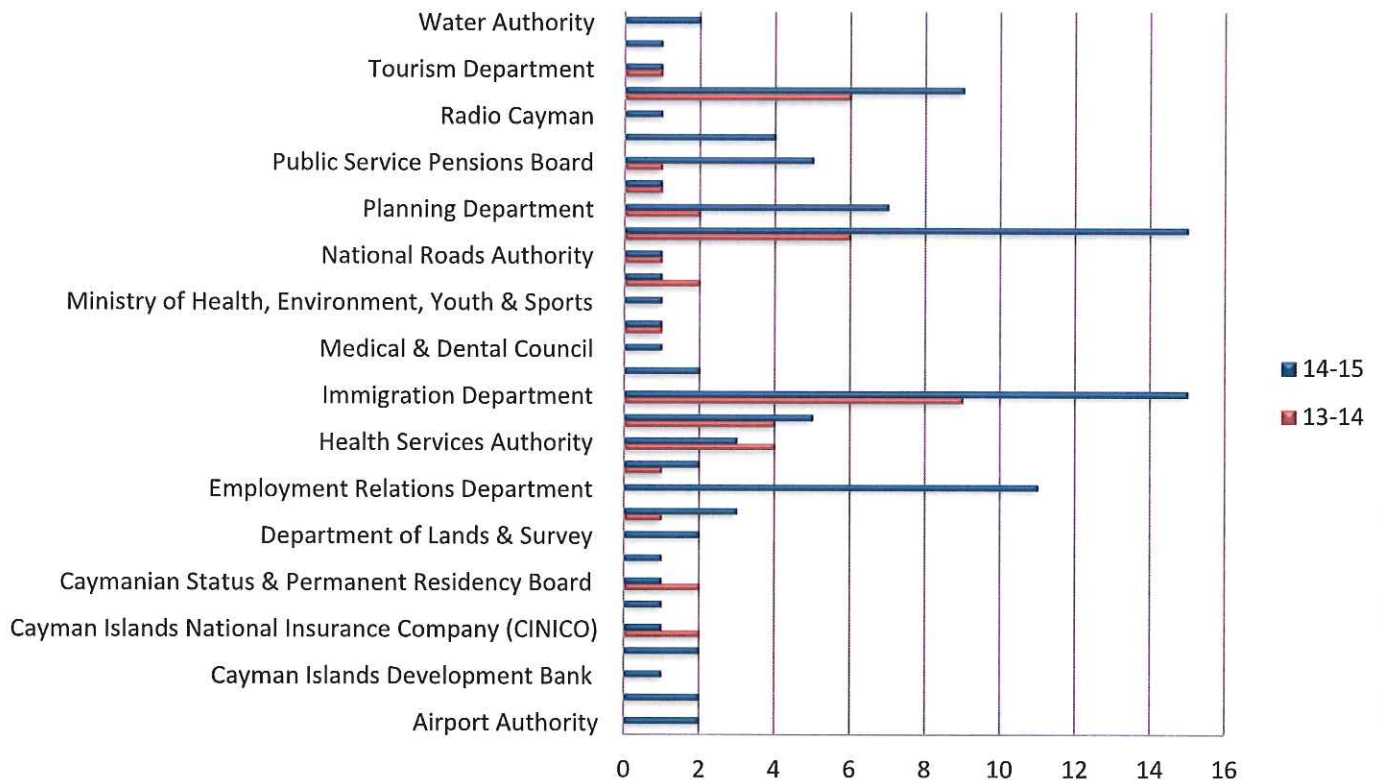


Figure 2: **Complaints Received in 2013-14 & 2014-15 fiscal years.** This bar graph shows a comparison of the complaints received by the Office of the Complaints Commissioner.

2014-15 Complainant Nationalities



Figure 3: **Complainant Nationalities 2014-15.** This pie chart shows the percentage of Caymanian Complainants and other nationalities which filed complaints with the OCC during the 2014-15 fiscal year.

2014-15 Complainants' District

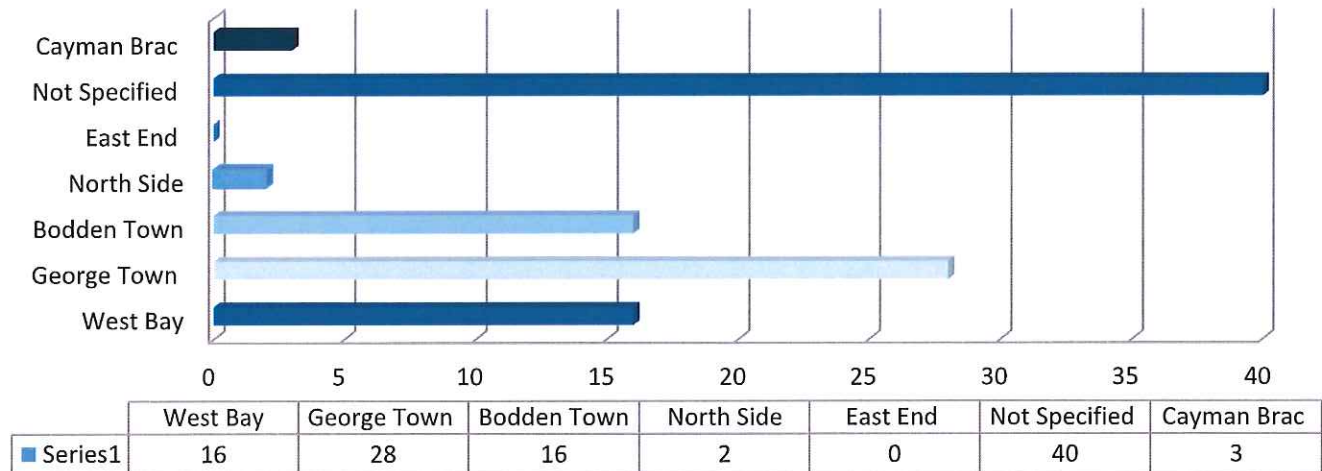


Figure 4: **Complainant Districts 2014-15.** This bar chart shows the districts complainants resided in who filed complaints with the Office of the Complaints Commissioner during the 2014-15 fiscal year.

2014-15 Complainants' Gender

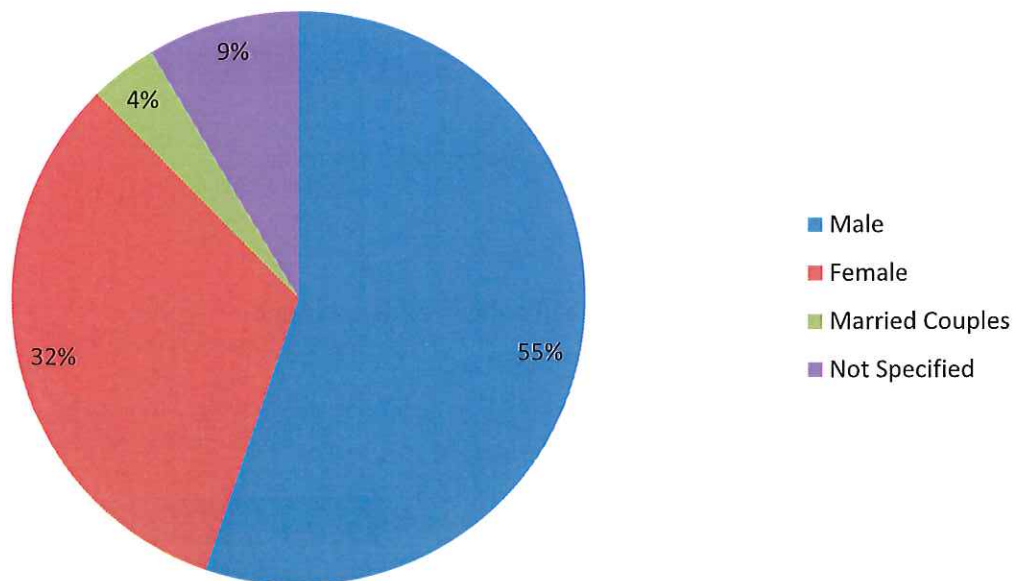


Figure 5: **Complainants' Gender 2014-15.** This pie chart shows the genders of the complainants who filed complaints with the OCC during the 2014-15 fiscal year.

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?

If answer is No-- Complainant is advised where assistance may be obtained

If answer is Yes-- **Have attempts been made by complainant to resolve complaint using other avenues available, including Internal Complaints Procedures?**

If answer is No --Complainant is referred to appeal process

If answer is Yes--**Has informal review determined if evidence is sufficient for informal resolution or investigation?**

If answer is No--Complaint is closed by letter

If answer is Yes--**What happens when informal resolution is attempted with officer?**

If Successful ---File is closed by letter

If Unsuccessful—OCC investigates the matter

INVESTIGATION

Is Maladministration identified?

If No--Complaint is closed by letter

If Yes – Consider alternative Dispute Resolution? Yes or no.

Formal discussions, Resolution?

If No—Discussion with section head or head of department

If Yes –Resolution and/or Report

RESOLUTION AND/OR REPORT

These 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. At times it is discovered that government entities require systemic changes, therefore the OCC will make recommendations to rectify such matters, but there are also times when the OCC finds that

entities in question are not at fault, but that the laws or regulations governing them are inadequate. In many cases, neither the office in question nor the procedures are at fault, and this will result in a finding of no maladministration.

It is also the policy of the OCC to allow government entities the first 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 (ICP) Manager, and if this has not been done the OCC will refer the complainant to the (ICP) Manager prior taking the complaint. There are 74 government entities that presently have (ICP) 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 WATER AUTHORITY (WA) **C1415-13004**



Background:

On 8 August, 2014 complaints were filed against the Water Authority for (1) Excessive water bills caused from exerted pressure on water authorities' lines which resulted in leakage on the customer's line, and (2) for the Water Authorities' failure to properly notify the customer of this pipe leakage.

Investigation:

A formal notice of investigation from the Office of the Complaints Commissioner was issued to the Water Authority on 28 August, 2014. From the onset, the Water Authority was co-operative and offered the Office of the Complaints Commissioner any assistance required.

During this investigation an OCC investigator:

- 1) Visited the site of leakage
- 2) Examined the Water Authority Law and applicable policies governing this matter
- 3) Interviewed eight (8) members of staff from the Water Authority and one (1) member from the Lands and Surveys Department

The Office of the Complaints Commissioner's findings and recommendations were as follows:

- 1) Allegedly the damage to the pipelines was said to be caused by the tree root of a Wild Poinsettia tree beneath the ground. However, through further investigation the tree root was ruled to be highly unlikely the cause of this leakage due to the fact that the Water Authority's pipes are serviced with a flexy pipe which can bend if pressure is lodged against it.

As leakage was on the customer's side of the meter, in accordance with Water Authority's terms and agreement signed by the complainant which states *"the applicant is solely responsible for all works done downstream of the outlet side of the water meter, and is solely responsible for any water lost through failure and/or damage of those works, regardless of whether the failure and/or damage was the fault of the applicant or third party"*, the customer was therefore liable for any cost incurred.

- 2) The meter reader stated that on 3 December, 2013 after observing constant movement in the meter he notified three (3) individuals on the complainant's premises of the leak and they informed him that they were aware of the issue. However, this was denied by the tenants who insisted they knew nothing about the leak.

OCC Recommendation # 1: In the future the Water Authority should document the names of persons notified in order to prevent any allegations of not being properly notified.

The Customer Service Supervisor also called the numbers on the complainant's file to inform him of the leak, but it was later discovered that the complainant had changed numbers.

OCC Recommendation # 2: In the future the Water Authority should follow-up such telephone calls with a letter to persons being notified, in order to ensure that proper notification takes place.

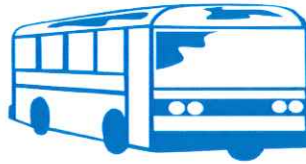
Conclusion:

Although the damage to the meter housing resulted from a nearby tree root, the damages occurred on the customer side of the meter, thus making the customer liable for the cost.

OCC Recommendations will be monitored for compliance.

**(1) COMPLAINT FILED AGAINST THE PORT AUTHORITY & (2) THE PUBLIC
TRANSPORTATION BOARD**

C1415-13063



Background:

On 16 September 2014, the complainant reported to the Office of the Complaints Commissioner (OCC) that the Port Authority Board revoked his/her request to solicit business at the George Town Port in 2010. The complainant also reported that the Public Transportation Board refused to renew his/her tour bus licence in 2011.

On 16 September 2014, the OCC advised the complainant that this matter was outside the twelve (12) month time limit allowed for the aggrieved individual to lodge a complaint.

Conclusion:

Although the Office of the Complaints Commissioner could not investigate this complaint due to the time limit being twelve (12) months as specified in the Complaints Commissioner Law (2014 Revision), the OCC referred the complainant to the Chief Officer of the Ministry of District Administration, Tourism and Transport.

COMPLAINT FILED IN REGARDS TO SAFETY AT STINGRAY CITY

C1415-12939



Background:

On February 23rd, 2014, a complaint was filed in regards to safety at Stingray City. However, similar complaints had influenced an Own Motion Investigation into the Safety of Small Commercial Waterborne Vessels in 2006, when several complaints were received from local watersport operators who were concerned about the lack of enforcement of waterborne vessel regulations.

During the investigation, the OCC had interviewed numerous watersport operators and residents, and as a result of their many concerns recommendations were made to

improve the overall safety of all parties involved. Furthermore, an article in the Caymanian Compass dated 28 March 2014, entitled "New concerns over Stingray Sandbar", covered majority of the concerns that were mentioned in the OCC Report.

Therefore as a result of the complaint filed on 23 February, 2014 (safety at Stingray City), the OCC contacted with the Port Authority, the Maritime Authority, the Royal Cayman Islands Police's Marine Unit, and the Ministry of Financial Services, Commerce & Environment. The OCC was informed that the Port Authority, the Maritime Authority and the Royal Cayman Islands Police's Marine Unit all share the responsibility of monitoring sea vessels to promote safety. However, these departments lack manpower and resources to monitor this site on a daily basis.

Conclusion:

After a thorough investigation, the Office of the Complaints Commissioner concluded that this matter could only progress positively with the necessary support and directions received from the Port Authority, the Maritime Authority, the Royal Cayman Islands Police's Marine Unit, and the Ministry of Financial Services, Commerce & Environment. There appears to be very little evidence to support such progress at this time.

COMPLAINT FILED AGAINST THE POST OFFICE AND CUSTOMS DEPARTMENT

C1415-13048



Background:

On 11 November, 2014 a complaint was filed against the Post Office and the Customs Department for charging duties on regular mail. The complainant stated that a package containing photographs was sent from the United Kingdom to the Cayman Islands and postage had already been paid in the UK however, the Post Office was additionally charging CI\$1.00 and the Customs Department was charging CI\$2.00 upon collection.

Investigation & Findings:

The Office of the Complaints Commissioner conducted an investigation into the matter as to why the complainant was being charged additional fees after postage had already been paid by the sender.

The OCC found that:

- 1) A package is taxable by customs under the Customs Law, paragraph 49. The charge of CI\$2.00 on "*goods in packages imported through a post office*", is set out in the Third Schedule, paragraph 4 (2) (c) of the Customs Tariff Law (2014 Revision).
- 2) The Seventh Schedule of the Postal Regulations (2007) - sets out the postal fees, including the CI\$1.00 Customs Clearance fee charged on items cleared through Customs.

Conclusion:

As both the Post Office and the Customs Department were operating under the Laws of the Cayman Islands the OCC concluded that the fees incurred by the complainant were justifiable and these entities were within their operating duties.

**COMPLAINT FILED AGAINST THE INFORMATION AND COMMUNICATION TECHNOLOGY
AUTHORITY
C1415-13037**

Background:

On 5 November, 2014 a complaint was filed against the Information and Communication Technology Authority (ICTA), which stated that the ICTA failed in its duty to ensure that LIME provided services to its customers as advertised. The complainant further elaborated that he/she opted to switch from their competitor after being advised by a sales associate of LIME that he/she would be able to utilize the services of international texting to family members overseas. The service however, was never forthcoming.

Investigation & Findings:

The OCC commenced its investigation with a formal notice of investigation to the ICTA on 6 November, 2014. From the onset, the ICTA were cooperative and offered the OCC all assistance needed. The OCC examined numerous documents and emails sent between the ICTA, LIME, Digicel and the signaling providers (Syniverse and TATA). Although the texting problem was temporarily resolved in December 2014, the problem continued to persist.

Conclusion:

The OCC has taken into careful consideration that this is not a matter that can be immediately resolved and can conclude that the ICTA is satisfactorily taking sufficient and continuous steps to resolve the matter with Digicel and LIME.

**COMPLAINT FILED AGAINST THE IMMIGRATION DEPARTMENT
C1415-13045**

Background:

On 4 November, 2014 a complaint was filed against the Immigration Department in regards to the Department serving a removal notice against the complainant to leave the Cayman Islands whilst he/she is still married to a Caymanian, and the parent of five children.

On 19 November, 2014 complainant informed the OCC that he/she retained services of an attorney who subsequently filed an injunction against the Immigration Department.

Conclusion:

The OCC was precluded from investigating this matter as per the Complaints Commissioner's Law (2014 Revision) Second Schedule. Subsection 5 stated matters not subject to investigation, making this case outside of the OCC's jurisdiction based on the fact that this matter is being dealt with by the courts.

COMPLAINT FILED AGAINST THE PLANNING DEPARTMENT, THE ELECTRICAL BOARD OF EXAMINERS AND CHIEF OFFICER

C1415-12892

**Background:**

On 15 July 2014, a complaint was filed in regards to faulty inspection carried out by an electrical inspector employed at the Planning Department. Complainant stated that he/she appealed this matter to the Electrical Board of Examiners, however the complainant was not satisfied with their findings.

Conclusion:

On 6 May 2014, complainant appealed the decisions made by the Electrical Board of Examiners to the Chief Officer of District Administration, Tourism and Transport, whom the complainant stated he/she received no response from. However, the OCC advised the complainant that he/she should appeal this matter with Mr. Alan Jones, as he is the Chief Officer for Planning, Agriculture, Housing and Infrastructure, as the matter is premature to the OCC.

COMPLAINT FILED AGAINST THE PUBLIC TRANSPORT UNIT

C1415-12931

**Background:**

On 28 April, 2014 a complaint was filed with the Office of the Complaints Commissioner stating that in 2014 he/she submitted two applications to the Public Transport Unit (PTU) for (a) Tour Driver's Permit and (b) Tour Operator's Permit, which were both allegedly unlawfully refused.

Findings:

The OCC investigated the matter and found that the complainants' Tour Driver's Permit was refused on 23 January, 2014 and the Tour Operator's Permit was refused on 28 February, 2014 on the basis that the complainant previously failed to comply with the Public Transport Law due to the complainant's inappropriate language and behaviour.

Conclusion:

The OCC found this complaint to be unfounded, as both applications were turned down due to the complainant's failure to comply with the Public Transport Law in terms for inappropriate language and behaviour.

COMPLAINT FILED AGAINST THE CAYMAN ISLANDS AIRPORT AUTHORITY
C1415-12952

Background:

On 28 March 2014, a complaint was filed in regards to the Cayman Islands Airport Authority (CIAA) refusing to grant the complainant's sister extended sick leave. The complainant also wanted to know under which policy the CIAA laid off his/her sister.

Conclusion:

The complainant was advised that in accordance with the Complaints Commissioner's Law (2014 Revision) this matter was not subject to investigation, and is outside of the OCC's jurisdiction.

The OCC advised the complainant that due to the fact that this matter is employment related, the complainant should appeal this matter on behalf of his/her sister to the Department of Labour and Pension.

COMPLAINT FILED (1) FOR DELAY IN CORRESPONDENCE REACHING THE MINISTERS
AND FOR
(2) MISSING CORRESPONDENCE FOR HON. MINISTER OF EDUCATION
C1415-12915

**Background:**

On 19 November 2013, the above complaint was lodged with the Office of the Complaints Commissioner; however the OCC was unable to investigate this matter due to the fact that the case was premature, meaning other avenues of resolution were available. The complainant was directed to the Internal Complaints Process of the Acting Facilities Manager of the Government Administration Building who conducted an internal investigation.

On 3rd June 2014, another complaint was filed with the Office of the Complaints Commissioner to conduct an investigation into this matter as the complainant was not satisfied with the outcome of the investigation previously conducted by the Acting Facilities Manager.

The following is a list of the numerous meetings and communications which the OCC attended with the various Government Entities in regards to the above complaint:

1. The staff at the reception desk at The Government Administration Building (GAB)	12/06/14
2. Security Guards at GAB	12/06/14
3. Manager & Acting Facilities Manager at GAB	12/06/14
4. Hon. Minister of Education;	03/07/14
5. P.A to Hon Minister Rivers	19/06/14
6. Acting PA for Hon Minister Rivers	20/06/14
7. Chief Officer, Deputy Chief Officer, Personal Assistant & FOI Manager from the Ministry of Education, Employment & Gender Affairs	19/06/14
8. Chief Officer & his PA from the Ministry of Home Affairs	20/06/14
9. Chief Officer from the Ministry of District Administration, Tourism & Transport	22/06/14
10. Personal Assistant to the Chief Officer of the Ministry of District Administration, Tourism & Transport	27/06/14
11. Cabinet Secretary	23/06/14
12. Chief Officer & PA for Planning, Agriculture, Housing & Infrastructure	18/06/14
13. Chief Office of Health, Sports, Youth & Culture	22/06/14
14. Hon Premier's PA & Office Supervisor	23/06/14
15. PA to the Minister of Planning, Agriculture, Housing & Infrastructure	23/07/14
16. PA to the Chief Officer of Ministry of Home Affairs	23/06/14
17. Deputy Chief Officer from the Ministry of Education, Employment & Gender Affairs.	27/06/14

Findings:

The investigation carried out by the Office of the Complaints Commissioner revealed that there is a reliance of good faith between Ministers and their Personal Assistants that all documents collected by the Personal Assistants will be delivered to the Ministers in a timely manner.

In regards to complaint (1) being delay in correspondence reaching the Ministers, the envelopes were signed for by the Ministers' Personal Assistants.

The OCC also found that the Ministries, with the exception of one (The Ministry of Planning, Lands, Agriculture, Housing & Infrastructure), had no clear procedures in

regards to accountability for envelopes to travel from Personal Assistants to the Ministers.

In regards to complaint (2) being missing correspondence, the acting Personal Assistant at the time stated that he/she signed for the envelope and passed it on to Minister Rivers, who opened it and told the acting Personal Assistant to refer it to the appropriate body, being the Ministry of Home Affairs. However, Minister Rivers does not actually remember seeing the letter, but stated that if it was received she would have referred it directly to the Ministry of Home Affairs if it came to her attention.

Recommendations:

The Office of the Complaints Commissioner recommended to the Chief Officers of all of the above Ministries (with the exception of The Ministry of Planning, Lands, Agriculture, Housing & Infrastructure) that their departments create a Mail Registry, which not only logs Incoming and Outgoing Correspondence, but also tracks correspondence which is passed from one staff member to another. The implementation of the Mail Registry will limit the chances of having mail being lost or overlooked in the future.

Conclusion:

The OCC's Recommendation will be monitored for compliance.

11. Matters Arising from Written Complaints

11.1 SPECIAL REPORTS

The Complaints Commissioner Law (2014 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 were done during the 2014-2015 year, as the Commissioner received evidence that Government Entities were working to comply with Recommendations made by the OCC. The OCC works closely with the government entities involved, to ensure compliance of OCC Recommendations.

12. Own Motion Investigations

The former Commissioner, Ms. Nicola Williams began planning an Own Motion Investigation during the Fiscal Year, 2014-15 but due to the workload and commitment of the OCC at the time, was unable to begin an investigation into the matter.

Shortly after Ms. William's resignation in January 2015, the OCC saw evidence in the local press that government was working at putting measures in place to resolve the issues that the former Commissioner had considered investigating. Therefore the OCC are now considering other

areas, where systemic issues might exist in order to determine if any of these warrant investigating.

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 misunderstandings 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 (2014 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) of the Complaints Commissioner's Law 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 some recommendations which were complied with in the Fiscal Year 2014-15, relating to the following complaint:

Recommendations made in August 2013 in regards to Complaint #12793 filed by a local company against the Central Planning Authority.

This report summarised an investigation conducted by the Office of the Complaints Commissioner. Authority to conduct an investigation comes from section 10(1) of the Complaints Commissioner Law (2014 Revision).

By Investigating this matter the OCC aimed to ascertain whether injustice has been caused by improper, unreasonable or inadequate administrative conduct on the part of any government entity, and where such issues exists to make recommendations that ensure that such injustices cease and all persons are treated fairly by the respective entities, and to also ensure that the same or similar issues do not arise in the future.

INVOLVED PARTIES

Complainant:	Local company
Government Entity:	Central Planning Authority (Authority) c/o Mr. A.L. Thompson Chairman PO Box 113 Grand Cayman KY1-1107 Cayman Islands

BACKGROUND

The Complainant, is a small residential, commercial and industrial civil engineering company operating in the Cayman Islands since 2006.

The Department of Planning's website provides an overview of The Central Planning Authority as:

“... a statutory authority appointed by Cabinet to oversee and review the physical development of Grand Cayman. The primary function of the

Authority is to prepare development plans and ensure that development proposals conform to the plan.

The Authority's role is defined by law as *"to secure consistency and continuity in the framing and execution of a comprehensive policy approved by Cabinet. With respect to the use and development of the land in the islands which this law applies in accordance with the Development Plan for the Islands."*

The Department of Planning is an arm of central government with a mission as posted on its website as: *"To ensure; that the physical development of the community is aesthetically pleasing, that the physical development of the Islands is environmentally friendly, that the physical development of the Islands promotes a strong economy, and that the development plans and associated legislation provide an unparalleled quality of life, for existing and future generations."* The Department of Planning also vets applications to be submitted to the Authority and otherwise administratively assists the Authority as needed.

THE LAW

The facts of this case were considered under the current related legislation.

Development and Planning Law (2011 Revision)(The Law)

Development and Planning Regulations (2011 Revision)(The Regulations)

Development and Planning (Amendment) Regulations 2012

COMPLAINT

The Complainant, contended that:

"The Authority does not check that [a] company that is either submitting work or has undertaken the work has the correct trade and business license to carry out designing and production of construction documentation for the purpose of obtaining a building permit and [executing] construction of the said project. Secondly [the Authority] does not enforce the "Approved Agent" of the Law."

In essence, the allegation is that the Authority knowingly refused to adhere to the obligations imposed on it by the **Development and Planning Law (2011 Revision)**, and **Development and Planning Regulations (2011 Revision)** and **(2012 Amendment)**, in respect to verifying the qualifications and confirming the existence of a business license necessary to be deemed an "Approved Agent" and approved by the CPA to submit plans and applications under the Regulations.

The complaint further suggested that **Section 7 of the Development and Planning Law (2011 Revision)** required the Authority to consult with other government

agencies with an aim to ensure that those seeking to be deemed “Approved Agents” are compliant with trade and business and other legal and administrative requirements in the Islands.

AUTHORITY’S POSITION

In Summary the entity contended that:

- Neither the **Development and Planning Law (2011 Revision)** nor the **Development and Planning Regulations (2011 Revision)** required the Authority to verify Trade and Business licenses in relation to obtaining a building permit or executing construction of a project.
- That in relation to seeking planning permission, **section 7 of the Law** only encouraged the Authority, as a matter of practice to consult with other relevant agencies for their review and comment. This section is not to be interpreted to mean that the Authority must enforce the Trade and Business Law.
- That the term “Approved Agent” defined in **section 2 of the Regulations** was too vague to be used to consider whether a person or entity meets part of the criteria necessary to submit an application for planning permission under **regulation 6**. Therefore the Authority has determined that there is a lack of procedural clarity necessary to administer the regulation, and as a result has chosen not to administer **section 6(3) of the Regulations**.
- That although to satisfy one of the definitions of Approved Agent, there was the requirement to be licensed under the Trade and Business Law; there is no stated nor implied obligation on the Authority to enforce the Trade and Business Law.

INVESTIGATION AND DISCUSSION

During this investigation, the OCC corresponded with the entity as well as the complainant on several occasions. All records reviewed were provided to the OCC by the Complainant and the Entities.

In considering the four main responses provided by the entity, the OCC’s findings were as follows.

In considering points one, three and four; **Section 6(3) of the Regulations** states:

"Applications for planning permission shall be made, by an approved Agent or by the owner of a duplex or single family home, to the Authority in the manner prescribed..."

Section 2 of the Regulations states:

"Approved Agent" means an architect, engineer, surveyor, draughtsman or other person -

(a) who has professional qualifications, training, or experience in architecture, building, construction or civil engineering, and is licensed under the Trade and Business Licensing Law (2007 Revision) to practise as such in the Islands; and

(b) who is approved by the Authority for the purpose of submitting to the Authority plans and applications under these Regulations;

The Regulations were amended by **The Development and Planning (Amendment) Regulations, 2012** to include *"Planner and Designer"*

Section 7 of the Law states:

"[The] Authority...shall, to the greatest possible extent [...] consult with departments and agencies of the Government having duties or having aims or objects related to those of the Authority or Board."

Considering these three provisions, Commissioner Williams stated that it was clear to her that the spirit and the wording of the Law and Regulations obliges the Authority to take steps to ensure that all applicants for planning approval meet the requirements to be considered an *"approved agent"*. Part of that requirement (when the person is not applying as the owner of a duplex or single family home) is that of being *"licensed under the Trade and Business Licensing Law"*. This explicitly includes by consulting with other government agencies that would be able to satisfy any queries made by the Authority.

These provisions are not to be considered as enforcing the Trade and Business Law, but instead as the Authority ensuring that the requirements set out in its own Law are met, notwithstanding that the collateral result would be encouraging the applicant to adhere to the trade and Business licensing requirements.

The Authority contends that the definition of *"Approve Agent"* is too vague to be used and thus refuse to acknowledge the provision. She considered this a bold statement and one that might tend to flirt with imposing liability on government.

She suggested that Architect, Engineer, Planner, Survey, Designer and Draughtsman all have their general definitions and as professions must require some level of certification or training at the least. Considering this, coupled with international practices as well as the Authority's objectives, surely some schedule of standards could be created as a reasonable tool to determine whether any particular person meets the Authority's criteria to be considered Architect, Engineer, Planner, Survey, Designer and Draughtsman. The Commissioner is also aware that the Planning Department has within its employ individuals working as "Planners". What is the criterion for these persons to gain employment, could those criteria be a starting point for determining whether a private person should be considered a "Planner".

Commissioner Williams also stated that she was aware that implementing such mechanism might render some individuals ineligible to submit planning applications. This however is no excuse not to apply the law and regulations. Therefore she further considers that the legislators used specific wording for the purpose of ensuring that the individuals submitting applications met a minimum standard of qualification, training or experience in architecture. This is further confirmed by the inclusion of "Planner and Designer", as specific titles.

FINDINGS AND RECOMMENDATIONS

The OCC did not find that the Complainant has suffered any direct detriment by the actions of the Authority.

The OCC found that the Authority is obligated by law to be reasonably satisfied that any person submitting an application for planning approval as a professional agent is licensed to conduct business in this jurisdiction. Proof of a valid Trade and Business license would suffice.

The OCC further found that by including specific practices for persons to be considered "approved agents" under the law, legislators intended for the Authority to identify a standard for these (Architect, Engineer, Planner, Survey, Designer and Draughtsman), possibly based on industry and regional standards. I further believe this is the case considering that no changes have been made to the regulations after the Authority complained about the "vague definition" to the Ministry in a memo dated August 2010.

The OCC recommended that within 60 days of receipt of this report the Authority presents the OCC with an action plan of how it intends to implement a system to vet applications based on being licensed to operate in the jurisdiction, and also how it plans to implement a system of acceptable criteria for persons to be considered "approved agent" as **per regulation 2(a) of the Development and Planning**

Regulations (2011 Revision) as amended by the Development and Planning (Amendment) Regulations 2012.

I further recommend that the Authority implement the above procedures within 90 days of receipt of this report.

Where the Authority considers that there are alternative options which will have the same effect as the above recommendations, I recommend that the Authority submit its views to the OCC within 60 days of receipt of this report.

Compliance: The OCC received proof of substantial compliance in June 2015 therefore monitoring of these recommendations has ceased.

Recommendations made in August 2014 in regards to Complaint #12915 filed by a local complainant against The Ministry of Home Affairs, Health & Community Affairs, Ministry of Education, Employment & Gender Affairs, Ministry of Planning, Lands, Agriculture, Housing & Infrastructure and the Ministry of District Administration, Tourism & Transport

On 19 November 2013 a complaint was lodged against the above Ministries in regards to delay and missing correspondence which was addressed to Government Ministers.

Upon preliminary investigations, it was determined that the complaint had not as yet been filed through the Internal Complaints Process (ICP), therefore the complainant was referred to the ICP of the Acting Facilities Manager of the Government Administration Building where the correspondence was first delivered, before being passed onto the various ministries. The Acting Facilities Manager conducted an investigation into the matter, but as the complainant was not satisfied with the outcome he/she filed a complaint with the OCC on 3 June 2014.

The OCC investigation which was completed in July 2014 resulted in the following Findings and Recommendations:

There is a reliance of good faith between the Ministers and their Personal Assistants (PAs) that all documents signed by the PAs will be taken to the Ministers.

In this case, the envelopes may take up to a week to reach the individual Minister, depending upon the contents, Minister's schedule, and the Minister availability.

The OCC concluded its investigation and recommended that the Chief Officers give directives for the creation of a Mail Register which not only logs Incoming and Outgoing Correspondence, but also tracks correspondence which is passed from one staff member onto another, in order to ensure that future correspondence is not lost or overlooked.

For assistance in creating such a system of tracking correspondence, the PAs were directed to contact Mrs. Ronda Webster, PA for the Ministry of Planning, Lands, Agriculture, Housing & Infrastructure as she is the only PA which has such a system already in place. The OCC will follow up with each Ministry within one month's time (30 days) to ensure that all other Ministries have implemented such a system, and it is functional.

Compliance: Before the end of the following month the OCC was provided with proof substantiating that the 3 Ministries without a functioning correspondence tracking system had implemented such a system, and they were now functioning.

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 Motions Investigations launched by the Complaints Commissioner. In July 2014 when the Fiscal Year began, the OCC was monitoring 28 Recommendations. In June 2015, at the end of the Fiscal Year, the OCC were still monitoring 33 Recommendation, but was shown evidence that government were working towards compliance with OCC Recommendations. Some Recommendations may require a lengthy period for compliance to take place, as they may require changes to legislation.

15. Special Projects

15.1 Monitoring of Internal Complaints Processes

The OCC continues to monitor entities which have internal Complaint Processes in place. The OCC usually hold its Annual Internal Complaints Process (ICP) Seminar each year in March, but during the fiscal 2014-15 due to the extremely heavy work load of staff members, as a result of the Commissioner's resignation some months before, the OCC was unable to hold its Annual ICP Seminar & Awards Ceremony as it was considered more important for staff to deal with more pressing investigations and other required tasks.

Although it was not possible for the OCC Seminar & Awards ceremony to be held, the Office continued to monitor the work of Seventy-four (74) Government Entities on a bi-annual basis. Every six months an ICP Quarterly Report is submitted by each Entity. The OCC has witnessed a remarkable improvement in the handling of complaints by most ICP Managers.

15.2 OCC Supports the promotion of Health & Fitness

Every Step Counts is a 21 day wellness event which commenced on 16 January – 6 February 2015, and included a pedometer challenge to promote and increase physical activity, provide education on risk factors associated with lifestyle diseases, preventative lifestyle practices that contribute to the reduction of risk factors and stress management techniques to effectively manage job related stress.

The event consisted of various lunch and learn sessions, health screening checks and a smoothie/shake competition with our very own Investigator, Daniel Lee taking second place with 'Julie's Jubilee Smoothie' a recipe created in-house by OCC Senior Investigator, Julie Faulknor-Grant.



OCC investigator, Daniel Lee (third from right) participates in smoothie challenge

15.3 OCC Supports Autism Awareness

National Autism Awareness Month was celebrated from Wednesday, 1 April – Thursday, 30 April 2015. In support of persons with Autism in the Cayman Islands, our very own Intake Officer, Mrs. Claudine Simons, who has a thirteen (13) year old son with Autism, visited the Light House School which planned a day of festivities for the students. Mrs. Simons had the pleasure of assisting with story time and a planned lunch from Burger King.



Claudine Simons, OCC Intake Officer (back row, fifth from left)

Appendix B

**Financial Statements of
The Office of the Complaints Commissioner
For the Year ended 30 June 2015**

**OFFICE OF THE
COMPLAINTS COMMISSIONER
FINANCIAL STATEMENTS
30 JUNE 2015**



GOVERNMENT OF THE CAYMAN ISLANDS

Office of the Complaints Commissioner

FINANCIAL STATEMENTS

30 JUNE 2015

Office of the Complaints Commissioner

Financial Statements for the year ended 30 June 2015

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Location: 3rd Floor Anderson Square, Shedden Road, George Town, Grand Cayman
Mailing Address: P.O. Box 2252, Grand Cayman KY1-1107, CAYMAN ISLANDS
Phone: (345) 943-2220 Fax: (345) 943-2221

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 Acting Complaints Commissioner 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 Acting Complaints Commissioner 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 2015.

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 2015;
- (b) fairly reflect the financial position as at 30 June 2015 and performance for the year ended 30 June 2015;
- (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. Bridgette Von-Gerhardt
Acting Complaints Commissioner

Date: 20/10/2015

Ms. Kim France
Chief Financial Officer

Date: 20/10/2015

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 2015, 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 4 to 21 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.

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 2015 and of its financial performance and its cash flows for the year then ended in accordance with International Public Sector Accounting Standards.


Garnet Harrison, CPA, CA
Acting Auditor General

30 October 2015
Cayman Islands

OFFICE OF THE COMPLAINTS COMMISSIONER
STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2015
(Expressed in Cayman Islands Dollars)

Prior Year Actual CIS000		Note	Current Year Actual CIS000	Approved Budget (Note 1(c)) CIS000	Variance (Budget vs. Actual) CIS000
	Current Assets				
209	Cash and cash equivalents	2,14	319	166	(153)
127	Receivables from exchange transactions	3,14	99	64	(35)
14	Prepayments		9	7	(2)
350	Total Current Assets		427	237	(190)
	Non-Current Assets				
23	Property and equipment	4	21	17	(4)
23	Total Non-Current Assets		21	17	(4)
373	Total Assets		448	254	(194)
	Current Liabilities				
25	Payables under exchange transactions, other payables and accruals	5	26	21	(5)
16	Employee entitlements	6	15	5	(10)
174	Surplus payable	7,14	249	70	(179)
215	Total Current Liabilities		290	96	(194)
215	Total Liabilities		290	96	(194)
158	Net Assets		158	158	-
	Net Assets/Equity				
158	Contributed capital		158	158	-
-	Accumulated surpluses		-	-	-
158	Total Net Assets/Equity		158	158	-

The accounting policies and notes on pages 8 -21 form part of these financial statements.

OFFICE OF THE COMPLAINTS COMMISSIONER
STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)

Prior Year Actual CIS\$000		Note	Current Year Actual CIS\$000	Approved Budget (Note 1(c)) CIS\$000	Variance (Budget vs. Actual) CIS\$000
	Revenue				
740	Sale of goods and services	8	767	767	-
740	Total Revenue		767	767	-
	Expenses				
451	Personnel costs	9,14	436	507	71
191	Supplies and consumables	10,14	168	254	86
4	Depreciation	4	6	6	-
	Loss on sale of property and equipment	4	1	-	(1)
646	Total Expenses		611	767	156
94	Surplus for the year		156	-	156

The accounting policies and notes on pages 8 -21 form part of these financial statements.

OFFICE OF THE COMPLAINTS COMMISSIONER
STATEMENT OF CHANGES IN NET ASSETS/EQUITY
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)

	Contributed Capital CI\$000	Accumulated Surplus CI\$000	Total Net Assets/Equity CI\$000	Approved Budget (Note 1(c))	Variance (Budget vs. Actual)
Balance at 30 June 2013	137	-	137	137	-
Equity investment	21	-	21	25	4
Surplus for the year (2013/14)	-	94	94	-	(94)
Repayment of surplus to Cabinet	-	(94)	(94)	-	94
Balance at 30 June 2014	158	-	158	162	4
Balance at 30 June 2014	158	-	158	158	-
Surplus for the year (2014/15)	-	156	156	-	(156)
Repayment of surplus to Cabinet	-	(156)	(156)	-	156
Balance at 30 June 2015	158	-	158	158	-

The accounting policies and notes on pages 8 -21 form part of these financial statements.

OFFICE OF THE COMPLAINTS COMMISSIONER
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)

Prior Year Actual CI\$000		Note	Current Year Actual CI\$000	Approved Budget (Note 1(c)) CI\$000	Variance (Budget vs. Actual) CI\$000
	CASH FLOWS FROM OPERATING ACTIVITIES				
	<i>Receipts</i>				
670	Outputs to Cabinet		795	766	(29)
	<i>Payments</i>				
(438)	Personnel costs		(437)	(507)	(70)
(189)	Supplies and consumables		(162)	(253)	(91)
<u>43</u>	Net cash flows from operating activities	11	<u>196</u>	<u>6</u>	<u>(190)</u>
	CASH FLOWS FROM INVESTING ACTIVITIES				
(21)	Purchase of property and equipment	4	(5)	-	5
<u>(21)</u>	Net cash flows from investing activities		<u>(5)</u>	<u>-</u>	<u>5</u>
	CASH FLOWS FROM FINANCING ACTIVITIES				
21	Equity Investment		-	-	-
(889)	Repayment of surplus		(81)	-	81
<u>(868)</u>	Net cash flows from financing activities		<u>(81)</u>	<u>-</u>	<u>81</u>
(846)	Net increase/(decrease) in cash and cash equivalents		110	6	(104)
1,055	Cash and cash equivalents at beginning of year		209	160	(49)
<u>209</u>	Cash and cash equivalents at end of year		<u>319</u>	<u>166</u>	<u>(153)</u>

The accounting policies and notes on pages 8 -21 form part of these financial statements.

**OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)**

Description and principal activities

The Office of the Complaints Commissioner 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 the Cayman Islands for the financial year ended 30 June 2015.

The principal address of the Office of the Complaints Commissioner is located at Anderson Square 3rd Floor, George Town, Grand Cayman. As at 30 June 2015, the Office of the Complaints Commissioner had 5 employees (2014: 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 2015.

(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 2015.

(c) Budget amounts

The 2014/15 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 2014/15 original budget was presented in the 2014/2015 Annual Budget Statement of the Government of the Cayman Islands and approved by the Legislative Assembly on 25 June, 2014. There have been no subsequent adjustments to the approved budget and therefore this represents the final budgeted amounts.

**OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(d) Judgments and estimates

The preparation of financial statements in accordance with International Public Sector Accounting Standards 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 and equipment and payables under exchange transactions. 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 2015, no reliable fair value estimate of contributed goods and services provided to Office of the Complaints Commissioner by government entities could be made and therefore no estimate of amounts are recorded in these financial statements (2014: \$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 deferred as a liability.

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 2015 were zero (2014: \$0). Revenue is recognised at the 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 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 amounts paid for goods and services in advance of receiving such goods and services are recognised as a prepayment.

**OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(j) Property and equipment

Property and equipment is stated at historical cost less accumulated depreciation. Items of property 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 and equipment; 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.

<u>Asset Type</u>	<u>Estimated Useful life</u>
• Computer Equipment	3 – 4 years
• Office equipment and furniture	5 – 10 years
• Other equipment	5 – 10 years
• Leasehold improvements	Over the remaining term of the lease

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 amount. 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 disposal of property 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 of the Complaints Commissioner are paid to the Public Service Pension Fund and administered by the Public Service Pension Board (the "Board"). Contributions of 12.384% on basic salary - employer 6.192% and employee 6.192% - are made to the Fund by the Office of the Complaints Commissioner.

**OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(k) Employee benefits (continued)

Contributions of 12% on acting, duty allowances – employer 6% and employee 6% - are made to the Fund by the Office of the Complaints Commissioner.

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 contributions 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 of the Government of the Cayman Islands and not within individual Government entities.

(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, other payables and accruals, employee entitlements 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 accruals, employee entitlements 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 statement 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 measured at amortized 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.

**OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(l) Financial instruments (continued)

De-recognition

A financial asset is de-recognised when the Office of the Complaints Commissioner 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.

(m) Provisions and contingencies

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 not recognised but are disclosed in the financial statements when an inflow of economic benefits is probable.

(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 reclassified to ensure consistency with the current period unless it is impracticable to do so.

(p) 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.

**OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(q) Revenue from non-exchange transactions

The Office of the Complaints Commissioner receives various services from other Government entities for which payment is made by the 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. The Office of the Complaints Commissioner 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 and equipment, such service in-kind is recognized in the cost of property and equipment.

Note 2: Cash and cash equivalents

As at 30 June 2015 the Office of the Complaints Commissioner held no restricted cash balances (30 June 2014: \$0). No interest was earned during the year on the amounts held in these bank accounts (30 June 2014: \$0).

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$000		CI\$000	CI\$000	CI\$000
190	CI\$ Operational current account	287	139	(148)
19	Payroll current account	32	27	(5)
209	Total	319	166	(153)

**OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)**

Note 3: Receivables from exchange transactions

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CIS000		CIS000	CIS000	CIS000
127	Sale of outputs to Cabinet	64	64	-
-	Debtor from other government agencies	35	-	(35)
127	Total receivables from exchange transactions	99	64	(35)

As of 30 June 2015 and 2014, receivables from exchange transactions are all due within one year.

Note 4: Property and equipment

	2014			
	Furniture and fittings	Computer hardware and software	Office equipment	Total
	CIS000	CIS000	CIS000	CIS000
<u>Cost</u>				
At 1 July 2013	12	31	14	57
Additions	-	7	14	21
At 30 June 2014	12	38	28	78
<u>Accumulated depreciation</u>				
At 1 July 2013	7	30	14	51
Depreciation charge for the year	1	1	2	4
At 30 June 2014	8	31	16	55
Net book value at 30 June 2014	4	7	12	23

OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)

Note 4: Property and equipment (continued)

	2015				
	Furniture and fittings	Computer hardware and software	Office equipment	Leasehold improvements	Total
	CI\$000	CI\$000	CI\$000	CI\$000	CI\$000
<u>Cost</u>					
At 1 July 2014	12	38	28	-	78
Additions	2	-	-	3	5
Disposals	(3)	-	(14)	-	(17)
At 30 June 2015	11	38	14	3	66
<u>Accumulated depreciation</u>					
At 1 July 2014	8	31	16	-	55
Depreciation charge for the year	2	2	2	-	6
Disposal	(3)	-	(13)	-	(16)
At 30 June 2015	7	33	5	-	45
Net book value at 30 June 2015	4	5	9	3	21

OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)

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

Prior Year Actual		Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CIS000		CIS000	CIS000	CIS000
20	Creditors	16	-	(16)
-	Creditors Ministries/Portfolios	-	16	16
5	Accrued expenses	10	5	(5)
25	Total payables under exchange transactions, other payables and accruals	26	21	(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		Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CIS000		CIS000	CIS000	CIS000
	Current employee entitlements are represented by:			
16	Annual Leave	15	5	(10)
16	Total current portion	15	5	(10)
16	Total employee entitlements	15	5	(10)

Note 7: Surplus payable

Surplus payable represents accumulated surplus of \$249 thousand as at 30 June 2015 (2014: \$174 thousand). Under the *Public Management & Finance Law (2013 Revision)* section 39 (3)(f), the Office of the Complaints Commissioner may "retain such part of its net operating surplus as is determined by the Financial Secretary". Therefore, the Office of the Complaints Commissioner has recorded an additional surplus payable amount to the Government of the Cayman Islands in the amount of \$156 thousand as of 30 June 2015. The Financial Secretary has not confirmed whether they can retain the surplus achieved during this year and the prior year. During the year ended 30 June 2015 the Office of the Complaints Commissioner paid to Cabinet a surplus payable amount of \$81 thousand.

OFFICE OF THE COMPLAINTS COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 30 JUNE 2015
(Expressed in Cayman Islands Dollars)

Note 8: Revenue

Prior Year Actual	Revenue type	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CIS000		CIS000	CIS000	CIS000
740	Outputs to Cabinet	767	767	-
740	Total sales of goods and services	767	767	-

Note 9: Personnel costs

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CIS000		CIS000	CIS000	CIS000
387	Salaries, wages and allowances	368	412	44
43	Health care	50	70	20
20	Pension	18	24	6
1	Other	-	1	1
451	Total Personnel costs	436	507	71

Note 10: Supplies and consumables

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CIS000		CIS000	CIS000	CIS000
75	Lease of property and equipment	59	75	16
39	Purchase of services	29	68	39
33	Utilities	26	38	12
15	Supplies and materials	13	22	9
15	Audit fees	17	15	(2)
10	Training	17	18	1
3	Travel and subsistence	5	16	11
1	General insurance	2	1	(1)
-	Other	-	1	1
191	Total Supplies & consumables	168	254	86

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

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$000		CI\$000	CI\$000	CI\$000
94	Surplus from ordinary activities	156	-	(156)
4	Non-cash movements			
	Depreciation expense	6	6	-
	Loss on sale of property and equipment	1	-	(1)
	Changes in current assets and liabilities:			
(70)	Decrease/(Increase) in receivables	28	-	(28)
(7)	Decrease/(Increase) in prepayments	5	-	(5)
22	(Decrease)/Increase in payables	-	-	-
43	Net cash flows from operating activities	196	6	(190)

Note 12: Contingent liabilities and assets

No contingent liabilities or assets existed as at 30 June 2015 (2014: \$Nil).

Note 13: Commitments

Prior Year Actual	Type	One year or less	One to five Years	Total
CI\$000		CI\$000	CI\$000	CI\$000
	Operating commitments			
-	Non-cancellable accommodation leases	38	135	173
-	Total Operating Commitments	38	135	173

The Office of the Complaints Commissioner has medium to long-term accommodation leases for the premises it occupies in George Town. The lease is for 5 years and expires the 30 October 2019. The amounts disclosed above as future commitments are based on the current rental rates.

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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 received \$795 thousand in outputs from cabinet, but incurred less expenses than were budgeted. This surplus however was reduced by a repayment to Cabinet of a surplus payable in the amount of \$81 thousand. The budgeted cash flow did not include this repayment.

Receivables from exchange transactions

The variance of \$35 thousand noted for receivables from exchange transactions relate to an amount receivable from the Information Commissioner's Office, this was not considered during the preparation and approval of the final budget.

Surplus payable

The Office of the Complaints Commissioner has recorded a surplus of \$156 thousand in the year in addition to the repayment as noted above. The budget did not include any provision for surplus or the repayment of prior year surplus.

Statement of financial performance

Personnel costs

The net decrease in personnel costs of \$71 thousand to the budgeted amount is primarily due to the resignation of the Complaints Commissioner. At 30 June 2015 the position was still vacant, however a senior staff member has assumed this position in an acting capacity since 10 January 2015.

Supplies and consumables

The net decrease of \$86 thousand to budget is primarily due to the decreases in professional fees, rent, utilities and official travel. Professional fees are budgeted as contingencies and are expected to vary each year. The Office of the Complaints Commissioner moved to a shared location with the Information Commissioner Office from February 2015. This has resulted in cost savings in rent and utilities. The level of official travel anticipated in the budget did not materialise during the 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 of the Cayman Islands 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 2015 and were consistent with normal operating relationships between entities and were undertaken on terms and conditions that are normal for such transactions. These transactions are as follows:

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Note 15: Related party and key management personnel disclosures (continued)

Prior Year Actual	Statement of financial position	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CIS\$000		CIS\$000	CIS\$000	CIS\$000
127	Receivables from exchange transactions	99	64	(35)
174	Surplus payable	249	70	(179)
889	Surplus paid during the year	80	-	(80)
Statement of financial performance				
740	Sale of goods and services	767	767	-
1	Insurance expense	2	1	(1)

Key management personnel

Key management personnel are also considered to be related parties.

There have been two full-time (2014: one full-time) equivalent personnel considered as key management personnel as the Complaints Commissioner resigned during the financial year and a senior staff member has been acting as the Commissioner effective January 10, 2015. The total remuneration includes: regular salary, allowances, pension contributions and health insurance contributions. Total remuneration for senior management in 2014-15 was \$151 thousand (2013-14: \$137 thousand). There were no loans made to key management personnel or their close family members in 2014-15 (2013-14: \$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.

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Note 16: Financial instrument risks (continued)
Credit risks (continued)

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. Receivables from exchange transactions are due from the Government of the Cayman Islands and is deemed financially stable to meet its liabilities.

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 on a timely basis. In the event of being unable to collect its outstanding debts, it is expected that the Government of the Cayman Islands would temporarily fund any shortfalls for the Office of the Complaints Commissioner with its own cash flows. As at 30 June 2015 and 2014, all of the financial liabilities were due within three months of the year end dates.

Currency risk

The Office of the Complaints Commissioner has minimal exposure to currency exchange risk.

Note 17: Financial instruments – fair values

As at 30 June 2015 and 2014, the carrying values of cash and cash equivalents, receivables from exchange transactions, payables under exchange transactions, other payables and accruals, surplus payable and employee entitlements approximate their fair values due to their relative short-term maturities.

Note 18: Subsequent events

In preparing these financial statements management has evaluated and disclosed all material subsequent events up to 30 October 2015 which is the date that the financial statements were available to be issued.