

**Co-operative Republic of Guyana**

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**REPORT  
OF THE OMBUDSMAN  
2017- 2018**



# **Report of the Ombudsman Annual Report for 2017- 2018**

Presented to the National Assembly pursuant to Article 194 (4) of the  
Constitution of the Co-operative Republic of Guyana.



## **MISSION STATEMENT**

The Office of the Ombudsman is established to guarantee protection to members of the public against the abuse or misuse of power by the bureaucracy. To achieve this goal the Office is committed and dedicated to the following:

- (1) To investigate and resolve complaints promptly against injustice done to members of the public by government departments and other authorities.
- (2) To provide informal, dependable and freely accessible service to members of the public;
- (3) To treat members of the public with courtesy, compassion, honesty and respect their privacy;
- (4) To educate members of the public of the services of the Office of the Ombudsman;
- (5) To be ethical, transparent and accountable;
- (6) To offer guidance to members of the public whose complaints are outside of the jurisdiction of the Ombudsman; and
- (7) To ensure that members of the public are treated alike and there is no discrimination on the ground of race, place of origin, political opinions, colour, creed or sex.



**HON. JUSTICE (RET'D) WINSTON PATTERSON**  
**OMBUDSMAN**  
**TEL: 226-2294**

**OFFICE OF THE OMBUDSMAN**  
**39 BRICKDAM, STABROEK,**  
**GEORGETOWN**  
**TEL: 226-1211**



28<sup>th</sup> February, 2019.

**The Honourable Dr. Barton U. A. Scotland O.R, C.C.H, M.P**  
**Speaker of the National Assembly**  
**Parliament Building**  
**Brickdam,**  
**Georgetown.**

Dear Sir,

**Re: Annual General Report 2017- 2018.**

I have the honour to submit to you my Annual General Report on the Performance of the functions of the Office of the Ombudsman for the period 2017-2018.

I shall be grateful if you will lay it before the National Assembly in accordance with Article 194 (4) of the Constitution of the Co-operative Republic of Guyana.

Article 194 (4) states that the Ombudsman must lay before the National Assembly a General Report on the performance of the functions of his office. I assumed office on the 17<sup>th</sup> May, 2017; this report therefore, covers the period 17<sup>th</sup> May 2017 to 31<sup>st</sup> December 2018

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'W. Patterson'.

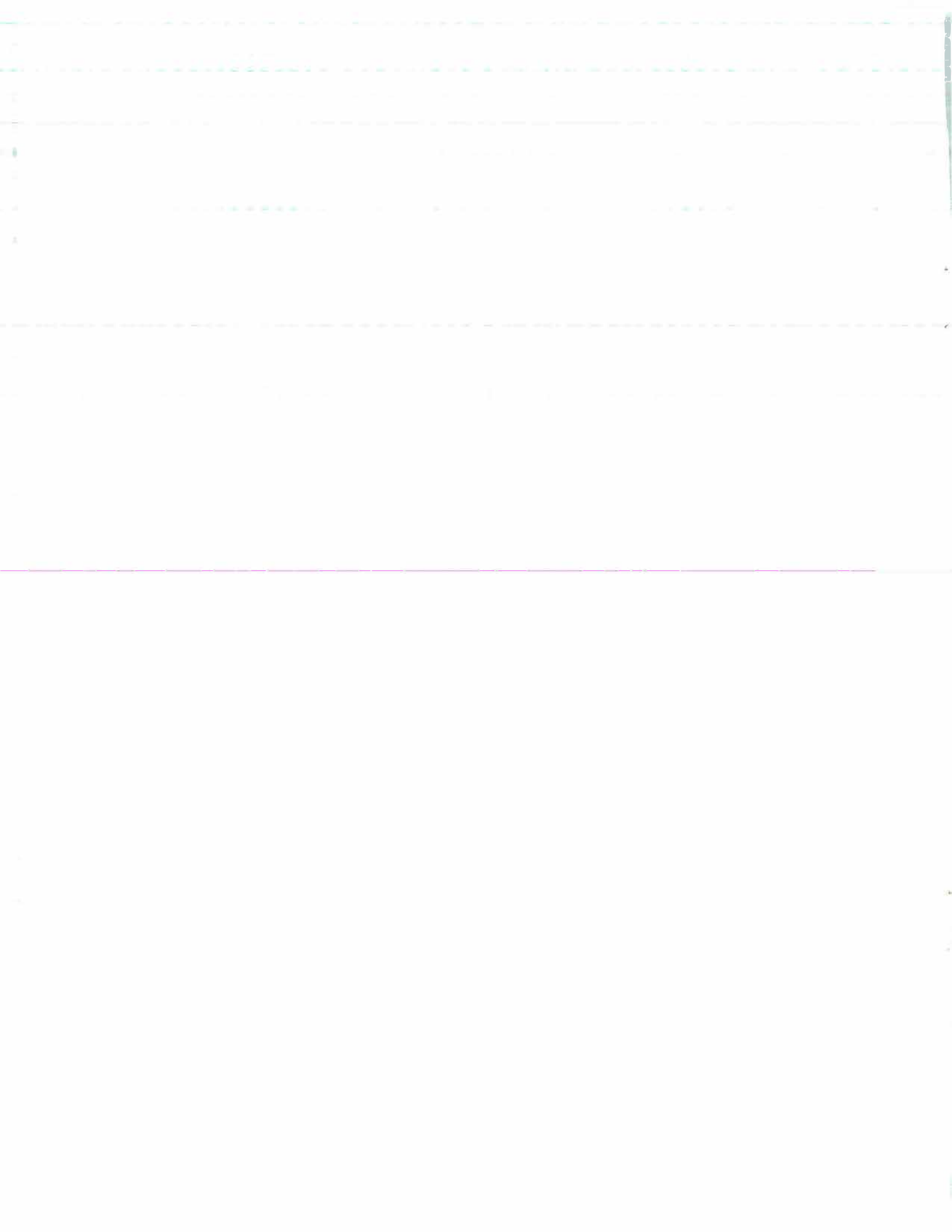
**Ombudsman**





## CONTENTS

Introduction	1
Review for the period 2017- 2018	3-8
Staff of the Office of the Ombudsman	9
Selected Complaint Summaries:	10-23
List of Agencies Complaints are against	24-25
<b>Appendix A:</b>	
- Extract from the Constitution- of the appointment, etc. of the Ombudsman.	26-32



## INTRODUCTION

In 1966, the Office of the Ombudsman was established in the independence Constitution and Mr. Gordon Gillette, SC, former Director of Public Prosecutions was appointed to that post. By virtue of this appointment, Mr. Gillette SC became the first Ombudsman in the Commonwealth Caribbean and served in the position for four (4) years.

Guyana had five (5) other Ombudsmen, namely: Hon. Mr. Justice GAS Van Sertima, Former High Court Judge (1970-1979), Hon. Mr. Justice Dhanessar Jhappan, CCH, Former Chief Justice (1981-1989), Hon. Mr. Justice Clifford Baburam, AA, former High Court Judge (1989-1994), Hon. Mr. Justice S. Y. Mohamed, former High Court Judge (1994-2004) and Hon. Mr. Justice Winston Moore former High Court Judge (2014-2016).

The office of the Ombudsman was vacant for about eight months due to the demise of the Hon. Mr. Justice Moore in September 2016. Several unfinished matters which existed at that time were processed simultaneously with current cases as a matter of urgency. This report therefore, covers the period May 2017- December 2018.

I am honoured to be the Ombudsman of Guyana rendering service to our nation. Serving the public is an ideal task which I welcome as it gives me great pleasure and satisfaction working with members of the public and public officers. Complaints are investigated as quickly as possible and I therefore request timely response from Authorities.

## CATEGORISATION OF COMPLAINTS

The number and type of complaints have a direct bearing on the standard of the public service. The role of the Ombudsman is to assist the administration to put its own affairs in order and to provide a more efficient service for the public.

The main task of the Ombudsman is to investigate whether there is or there is not any act of maladministration e.g. error, negligence, delay, discrimination, misapplication or misinterpretation of the law.

The concerned complaints fall in the following categories:

- (a) **Justified** i.e. if there is sufficient evidence to support a finding that an agency has erred.
- (b) **Unjustified** i.e. if there is insufficient evidence to support a determination against an agency.
- (c) **Resolved** i.e. if the agency agrees to implement the recommendation.
- (d) **Declined** for want of jurisdiction.
- (c) **Assistance rendered** i.e. when complaints did not fit into the above mentioned, but some assistance has been rendered.

## REVIEW OF THE YEAR 2017- 2018

During my period in Office from 17<sup>th</sup> May, 2017 to 31<sup>st</sup> December, 2018 I received Two Hundred and Twenty-nine (229) complaints.

The complaints for the period 17<sup>th</sup> May, 2017 to 31<sup>st</sup> December, 2018 were as follows:-

(a) Within my jurisdiction;

- (i) 138 complaints; and a summary of some of these complaints investigated are highlighted on pages 10-23.
- (ii) 30 of the above are still pending with the relevant authorities.

(b) There were 91 complaints outside of my jurisdiction

### Complaints disposed of in 2017- 2018:

Justified/ Resolved	-	104
Unjustified/ Indeterminate	-	1
Pending	-	30
Declined	-	2
Withdrawn	-	2
Assistance rendered	-	82
Referrals	-	8

More than Seventy Percent (70%) of the complaints were made by persons who walked in seeking advice and assistance.

### **The Complaints outside of the Ombudsman's jurisdiction**

(a) Law Courts – **38** complaints were received against the courts; these include dissatisfied with court's decision, fraud, injustice and victimisation during trial, too many postponements, disappearance of files, failure to get a date for hearing after a request for hearing was filed, delayed judge's decision, appeal hearings and trials because records are not ready. These complainants were advised accordingly.

I am precluded by the Constitution from investigating the 'commencement or conduct of civil or criminal proceedings in any court'.<sup>1</sup>

(b) Prisoners - complaints were made on behalf of prisoners; reasons such as: delay with preliminary hearings and trials in the High Court; query of their parole and NIS benefits. The relevant authorities were informed and complainants advised accordingly.

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<sup>1</sup> Article 193 (iii)

(c) Certain Institutions – complaints were not investigated because the constitution precludes the Ombudsman from carrying out investigations against certain institutions<sup>2</sup> and in certain matters.<sup>3</sup>

(d) Police – complaints received against the police include: wrongful dismissal, denial of benefits and police not taking action after a complaint was lodged. These cases were referred to the Police complaint Authority and the Commissioner of Police for their attention.

(c) (i) Magistrates – complaints made were; unfair decisions- sexual insults in court, denial of right to have an Attorney, behaving in an aggressive and abusive in manner in court.

(ii) Legal Practitioners – complaints made against lawyers were: failure to attend court and represent their clients, too many request for postponement, lack of communication with clients, deficiency and lack of professionalism.

In some of these situations, I contacted the Attorneys, informing them of the complainants' grievances and sought to obtain the information needed. In other cases, I referred the complainants to the relevant authority to advance their concerns.

(f) Private matters – Complaints were received from members of the public who came to this office seeking advice relating to matters of a private nature. These include, dispute

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<sup>2</sup> Article 192(6)

<sup>3</sup> Article 193; Article 192(3)(4)

among family members and between neighbours, landlord and tenant and business transactions.

### **Delay**

The investigation of the Ombudsman is done by correspondence. Some are answered within a reasonable time; others are answered after several reminders while some remain unanswered. As stipulated in the Constitution, the Ombudsman must lay a General report before the National Assembly<sup>4</sup>. In the report, mention is made of some departments, agencies and organisations which have not responded to correspondence.

### **Public Awareness**

The Office produces informed brochures which are made available to members of the public for their knowledge detailing the functions, matters which can be investigated and the constitution that guides the Ombudsman.

A website has also been created for faster accessible communication with the Office.

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<sup>4</sup> Article 194(4)



### **Visits from schools**

During the year 2017, several Fourth Form students from the Josel School visited the Office of the Ombudsman. They requested assistance regarding certain aspects of their study programme relating to the purpose, functions of the office and the duties of the Ombudsman.

In the year 2018, a student from Chase Academy also visited the office seeking information about Ombudsman's Office and the duties carried out by the Ombudsman to assist him with his preparation for a debate at the said school.

### **Overseas Visitors**

In 2017, I received a team comprising of four United Nations Representatives who were accompanied by an official from the Ministry of Foreign Affairs. The team requested information on the function of the Office of the Ombudsman to assist them with their designated programme.

### **Accommodation**

The Office of the Ombudsman which occupies the top floor of a three storeyed building; accommodated the Chairman and staff members of the Public Service Appellate Tribunal for a few months in 2017. This was necessary in order to facilitate the refurbishment of the first floor which was vacated by the Land Court.

Police Complaints Authority and the Guyana Bar Association Secretariat remain occupants on the ground floor of the building and were not affected.

### **Commendation**

I would like to commend the Guyana Police Force, Guyana Prison Service and the National Insurance Scheme for their Cooperation and prompt response to most of my correspondences. It is hoped that other Government departments and agencies try to emulate them.

## **STAFF OF THE OFFICE OF THE OMBUDSMAN**

The staff of the Ombudsman are public officers employed by the Department of the Public Service Ministry, Ministry of the Presidency. The staff consists of Nine (9) employees, as shown below.

- Ombudsman
- Secretary to the Office of the Ombudsman
- Confidential Secretary to the Ombudsman
- Administrative Assistant
- Accountant
- Assistant Accountant
- Registry Officer
- Office Assistant
- Cleaner

## SELECTED COMPLAINTS SUMMARY

### National Insurance Scheme

- Appeal for Increased NIS Pension

My office received complaint from a complainant regarding his NIS pension granted to him. He contended that the pension he was receiving was not in accordance with the contributions he made and felt deprived from what was rightfully his and requested my intervention in resolving the matter.

I wrote National Insurance Scheme narrating the facts supported by the evidence presented by the complainant. To compound the issue, this was a case where the complainant's appeal file could not have been found and he was requested to file another appeal which he did in 2012. To date "2018", there was no reply by the National Insurance Scheme regarding the two appeals. Two months after representing the complainant's cause, the National Insurance Scheme responded stating that: based on subsequent investigations, one hundred and two added contributions were located thus increasing the number of contributions which will cause him to have two percent (2%) added and allow him to have the use of the maximum contributions. As such the claim will be reviewed and the complainant will receive a higher pension.

I thanked the National Insurance Scheme for their prompt attention and timely response.

- **Denial of NIS Pension**

A contributor to National Insurance Scheme both as an employee and a self-employed person, at different periods submitted a complaint against National Insurance Scheme to my office. He stated that having attained the pensionable age a few years ago, he received a contribution statement from National Insurance Scheme which revealed that his total contributions amounted to 818. Believing this total entitles him to old age pension, he applied to the National Insurance Scheme for his pension but was told that some of his contributions were submitted late and as such, the late remittances have to be merged with those remitted on time. Somehow, he is not receiving his pension and has asked me to use my good office to have his matter resolved and also requested that National Insurance Scheme pay his pension to him from the effective date.

I wrote National Insurance Scheme which responded eight months thereafter and solemnly apologised for the late response. They informed that the complainant has since submitted an appeal relative to the old age grant which he was paid.

At present, his complaint is being investigated and I eagerly await the findings.

- **Refusal to grant Old Age Pension**

A Complainant sought my intervention in a matter he considered long outstanding and unreasonable. His claim for old age benefits was denied by the General Manager of the National Insurance Scheme and acting upon advice received from officers within that agency, he appealed her decision to the Tribunal. On 27/10/2016, he was informed that

his appeal dated 20/04/2015 was examined by the National Insurance Scheme Appeal Tribunal on 13/10/2016 and allowed.

It decided that he was entitled to old age benefits from the time he attained the age Sixty (60) but that decision was not upheld by the General Manager. A reminder to the National Insurance Scheme referring to my previous correspondence was sent. Thereafter, I received a response indicating that the complainant's matter has been referred to the Commissioner for final adjudication. However, he is yet to be appointed and the case cannot be further ventilated by the General Manager or any other statutory body. The claim will be reviewed only on the appointment of a Commissioner which is a Constitutional Portfolio.

Consideration ought to be given to the fact that he is eighty-three years of age, a diabetic and somewhat restricted in his movement whilst experiencing serious financial problems according to him. It is recommended that an acceptable system be put in place to deal with this and similar cases referred to the Commissioner who has not been appointed for some time.

Something needs to be done in order to mitigate the complainant's dire situation. It is therefore suggested that this situation be brought to the attention of the relevant authority by the National Insurance Scheme which is privy to the urgent need of a Commissioner of Insurance who has to render the final decision. The complainant has been very patient and understands the situation but is anxious for an urgent resolution of this matter. It is sad when beneficiaries of the Scheme suffer unduly even when they have a Tribunal decision in their favour. Urgent and determined efforts should be made to remedy this situation. This case is still pending.

## **Guyana Police Force**

- The complainant complained that he has been stagnated at the rank of Corporal for eighteen (18) years notwithstanding the fact that he has been performing duties of Senior Officer In-charge of police stations and outposts. He wrote and was successful at the inspectorate examination since 1997, and as far as he was aware, there was no disciplinary matter against him. According to him, he believes that he was overlooked for promotion because of his religion and as a result, he requested my urgent intervention and investigation into the matter.

I wrote the Commissioner of Police and attached copy of the complaint for his attention and necessary action. One month thereafter an acknowledgement was received and much to the credit of the Commissioner of Police, the complainant was promoted to the rank of Sergeant in the Police Force three months thereafter.

## Guyana Defence Force

- Seven complainants: members of the Guyana Defence Force sustained serious injuries caused by a massive explosion at Camp Grooms while they were on duty. A few of them suffered third degree burns on their bodies, legs and backs and some of them sustained damaged and fractured spines.

They were hospitalized and received medical assistance locally. Several Officers with extremely serious injuries were taken overseas for specialized medical treatment. These are all young men having families and medical issues. Individually, they were receiving under thirty thousand dollars (\$30,000) per month and they all needed regular medical attention and enhanced living conditions.

They complained that their dire circumstances and terrible plight were being ignored and as a group, they requested my assistance and urgent intervention on their behalf. Among the group, there were (2) two Corporals, (3) three Lance Corporals and (2) two Privates.

I acknowledged receipt of their complaints and informed them that attempts would have been made to have their situations dealt with as early as possible. They were interviewed and having deemed their request justified, the relevant authority expeditiously got on board and resolved their issues much to their satisfaction.



## **Ministry of Social Protection**

- An aggrieved complainant made a complaint against the Ministry she worked at for over 13 years alleging several wrongs done to her. She claimed to have worked there for a number of years with a clean record until the events complained of surfaced.

Several letters of complaint were written to a number of officials, including His Excellency the President and Ministers of Government. The allegations made were of a serious nature involving discrimination and the continued use of officials' position to exploit and perpetuate atrocities.

The thrust of the matter at hand as claimed by the complainant seemed to be her failure to receive an accurate and certified statement of indebtedness shortly after her retirement. In her complaint she stated: "The major sticking point is that I should have received an accurate and certified statement of indebtedness shortly after my retirement."

She indicated that several efforts to clarify and correct the statement were made by her but the Officials in the Ministry intentionally did not want an expeditious conclusion so they provided misleading information and inconsistent documents. She insisted that she should have been notified of any overpayment since it was noted, detected and corrected in 2012 and 2016 respectively.

Very serious allegations were made against three (3) Senior Officials and according to the complainant; upon their assignment she experienced more victimization, racial

discrimination and intentional infliction of emotional distress. She was pressured being assigned duties of two (2) to three (3) officers at two (2) institutions daily.

She also stated that all documents and information provided to her by the Permanent Secretary (PS) were conflicting, which makes her statement of indebtedness inaccurate.

I wrote the Ministry on behalf of the complainant and requested a response. Months thereafter my letter was acknowledged. The Ministry in its response stated that the complainant was paid a basic salary per month in excess of sixty thousand more than she was entitled.

According to the authorities, they informed the complainant about the overpayment and she was advised to contact the accounting unit in order to arrange for the repayment of the amount she was overpaid before she retired. However, there was no response from the complainant who claimed that such document from the Ministry was never received by her whilst the Ministry is firm that they have evidence that proves otherwise.

Another document was prepared by the Ministry showing that the complainant was overpaid an amount in excess of six hundred thousand (\$600,000) and this communication was dispatched to her.

In order to effectively deal with this issue, prior to responding to my correspondence, the Honourable Minister intervened by convening a meeting which involved the Permanent Secretary, and two (2) other senior Officials. At this meeting which was chaired by the Minister, the complainant was invited to raise her concerns, which she did and thereafter, the officers responded. The Honourable Minister having heard from all concerned concluded that the complainant was indeed overpaid.

According to the response from the Ministry, the complainant suggested that the wording on the document be changed from ‘Surcharge’ to being ‘Overpaid’ and this was promptly done. Further, the intervention by the Minister who chaired the meeting was with a view to conclude this matter and she advised the complainant that the evidence suggests that the amount was paid into her bank account and as a result, she has to repay the amount by agreeing to use a method suggested to her but she refused.

After careful examination of the complaint and response thereto, it is obvious that there is a dispute of facts: whether the complainant was indeed notified by the Ministry about the overpayment. The complainant denied receiving any document from the Ministry: whereas the Ministry claimed to have evidence to the effect that proves otherwise, whether her bank account was credited with over six hundred thousand dollars (\$600,000) to which she was not entitled but the Ministry claimed to have proof.

I am not satisfied that monies deposited in an active bank account bearing a customer’s name will go unnoticed by the person and it must be borne in mind, that no one should be entitled to undue enrichment as a result of a honest mistake.

There was also a dispute of facts; as to whether the Officer who approved responsibility allowance for the complainant had authority to do so. The Ministry’s position is that only the Public Service Ministry/ Department of the Public Service can approve any payment of responsibility allowance which was never done.

I therefore declined jurisdiction and advised the complainant to seek her remedy in the Court. Pursuant to **Article 192 (3)a, – the Ombudsman shall not investigate any action in respect of which the complainant has or had a remedy by way of proceedings in a Court.**

## Accountant General Department

- Re-Computation of Pension

The complainant applied for and was granted a pension in 2002. His payments were being deposited into his bank account. In 2010, he discovered that the computation made in 2002 was based on reduced pension and gratuity instead of full pension and also excluded his services at two State Agencies. A re-computation was done in 2015 which included his services previously excluded.

According to him, he did not exercise an option for a reduced pension and gratuity in the manner prescribed by the Pension Act and claimed that he should have been paid a full pension from the very beginning or corrected as soon as the contravention was brought to attention in 2010. He wrote Accountant General since June 2016 and to date, no reply has been received. He solicited my assistance to have another computation done on the basis of a full pension.

I wrote the Accountant General and Permanent Secretary Department of Public Service on 5<sup>th</sup> June, 2017 but received no response. Two reminders dated 16<sup>th</sup> November, 2017 and 28<sup>th</sup> February, 2018 with attachments for ease of reference were forwarded.

No response to date has been received from the Accountant General Department, however, the Permanent Secretary Department of Public Service responded on 19<sup>th</sup> March, 2018.

The Public Service Department informs that the complainant cannot compel the Accountant General to do a straight forward computation to reverse a fact and it is left to the Accountant General's consideration if he/she would do a re-computation up to age

fifty-five using the complainant's GUY STAC salary even though he was already in receipt of a final pension.

Since he is in receipt of two pension payments, it is believed that he is looking for an enhanced payment. As a matter of fact, the final computation could only be up to age fifty-five which is statutory in the Public Service and this matter has been processed. The complainant was accordingly informed.

## Audit Office of Guyana

The complainant, a former employee in the Office of the Auditor General for thirteen (13) years, had a three (3) year break in service for which the Public Service Ministry gave approval for the break to be disregarded for superannuation benefits.

He resigned from Audit Office twelve (12) years thereafter and on attaining age fifty-five (55) he applied to the Audit Office for his pension but received no response. However, after repeated telephone calls the Audit Director informed him that he is not entitled to the pension because he did not remain in the Audit Office until age Fifty-five (55) but resigned around age fifty-two (52).

He contends that he has been denied benefits for those ten (10) years of service with the Public Service that guarantee a pension and that his benefit was withheld until age fifty-five (55). No benefit was given to him at the time of the changeover of employment terms and conditions when the office became semi-autonomous.

He requested my help because the Audit Office of Guyana refused to make representation on his behalf to the Public Service Ministry. I wrote the Auditor General attaching the letter of complaint. My correspondence was acknowledged six (6) weeks later and a response received two (2) months after the acknowledgement.

The Audit Director in his response stated that the complainant is not entitled to the payment of Superannuation Benefits. He was paid all benefits due to him at the time of his resignation which included a refund from the Contributory Pension Plan that is managed by the Hand-in-Hand Group of Companies on behalf of the Audit Office.

Reasons advanced for this position are noted hereunder:

Upon the formation of the Audit Office of Guyana with effect from 1 May 2005, all employees employed by the Office of the Auditor General were given an offer of employment with the Audit Office of Guyana. Each employee was advised that officers would no longer be “public officers” hence their service with effect from 1 May 2005 shall not be pensionable services for the purposes of the Pensions Act. These officers will however receive superannuation with respect to their pensionable service upon the attainment of age 55 years.

Section 16 (1) (d) of the Audit Act state “every officer and employee not in receipt of or rejecting an offer of re-employment under this subsection shall be referred to the Public Service Commission for appropriate action by that commission. The employee was given an offer of employment upon the formation of the Audit Office via letter dated 27 April 2005, which he accepted.

Section 17 (2) of the Audit Act makes provision for all employees re-employed with the Audit Office to receive superannuation with respect to pensionable service on attainment of the age of fifty-five years.

However, a point to note, is that Section 17 (3) of the Audit Act allows for the Auditor General to make provision for the payment of pension, gratuity and other allowances in respect of the service of the officers and employees of the Audit Office on or after the prescribed date of their retirement therefrom. The employee did not retire from the Audit Office but rather resigned with effect from 16 February 2014 at age fifty-two.

According to Section 8 of the Pensions Act, no pensions, gratuity or allowance shall be granted to any officer except on his retirement from the public service in one of the following cases:

(a) On or after attaining age 55 years, or in special cases with the approval of the Minister on or after attaining the age of fifty years or, in special cases as mentioned in the proviso to section 11, or in the case of transfer to other public service on or after attaining the age at which an officer is permitted by the law or regulations of service in which he is last employed to retire on pension or gratuity or on or after attaining the age of fifty-five years whichever is earlier.

(b) On the abolishment of his office; or

(c) On compulsory retirement for the purpose of facilitating improvements in the organization of the department to which he belongs by which greater efficiency or economy can be effected; or

(d) On medical evidence to the satisfaction of the Minister that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent; or

(e) Termination of employment in the public interest as provided in this Act.

Additionally, Section M-07 Subsection (3) of the Public Service Rules states that except in special circumstances and with the approval of the Minister responsible for the Public Service, an employee who resigns from the Public Service forfeits all claims to Superannuation Benefits.

The employee would have been eligible for the payment of Superannuation Benefits upon his resignation if same was due to the abolishment of his office or was necessary in the best interest of the public. Since the employee did not resign for either of the reasons stated above, but rather to take up a more lucrative job offer, he forfeited all claims to Superannuation Benefits.



In view of the above, I could not fault the position adopted by the Audit Office which lead to the denial of the complainants claim by Public Service Ministry. His request was therefore not justified and he was accordingly informed.

## LIST OF AGENCIES COMPLAINTS ARE AGAINST

### Jurisdiction

1. Audit Office of Guyana-	1
2. Central Housing and Planning Authority-	1
3. Competition of Consumers Affairs Commission-	1
4. Guyana Defence Force-	14
5. Guyana Elections Commission-	1
6. Guyana Fire Service-	2
7. Guyana Lands and Surveys Commission-	8
8. Guyana National Newspapers Ltd.-	1
9. Guyana Police Force-	29
10. Guyana Power and Light-	1
11. Guyana Prisons Service-	3
12. Guyana Revenue Authority-	1
13. Guyana Water Inc.-	1
14. Mayor and City Council of Georgetown-	5
15. Ministry of Agriculture-	3
16. Mahaica Mahaicony Abary – Agricultural Development Authority (MMA-ADA)-	4
17. Ministry of Culture, Youth and Sports-	1
18. Ministry of Education-	4
19. Ministry of Finance (Accountant General)-	2
20. Ministry of Health-	2
21. Ministry of Legal Affairs (Attorney General Chambers)-	2

22. Ministry of Local Government	
a) Riverstown/Annandale NDC, Region 2-	1
b) Regional Democratic Council NDC, Region 3-	1
23. Ministry of Public Infrastructure-	1
24. Ministry of Presidency-	2
25. Ministry of Social Protection-	1
26. National Drainage and Irrigation Authority-	3
27. National Insurance Scheme-	33
28. Parole Board-	2
29. President's College-	3
30. Public Service Commission-	1
31. Transport and Harbour Department-	3

**Without Jurisdiction**

1. Judiciary/Court Matters-	38
2. Private Matters/Miscellaneous-	43
3. Complaints against Lawyers, Magistrates-	2
4. Scotia Bank-	2
5. Courts Guyana Inc.-	1
6. Universal Group of Companies-	1
7. Hand-in-Hand-	1
8. B.M. Soates-	2
9. Ogle International Airport-	1

# Appendix A

**Extract from the Constitution of the appointment etc of the Ombudsman**

**The Ombudsman**

Appointment,  
etc., of  
Ombudsman.

191.(1) The Ombudsman shall be appointed by the President acting after consultation with the Minority Leader.

(2) The Ombudsman shall not perform the functions of any public office and shall not, without the approval of the President in each particular case, hold any other office of emolument, other than his office as Ombudsman, or engage in any occupation for reward outside the duties of his office.

(3) Subject to the provisions of the next following paragraph, a person holding the office of Ombudsman shall vacate that office at the expiration of four years from the date of his appointment.

(4) The provisions of article 225 (which relate to removal from office) shall apply to the office of Ombudsman, and for the purposes of paragraphs (4) and (6) of that article the prescribed authority shall be the Prime Minister.

Matters subject  
to investigation  
by the  
Ombudsman.

192.(1) - Subject to the provisions of this article, the Ombudsman may investigate any action taken by any department of Government or by any other authority to which this article applies, or by the President, Ministers, officers or members of such department or authority, being action taken in exercise of administrative functions of that department or authority.

(2) The Ombudsman may investigate any such action as aforesaid in any of the following circumstances, that is to say -

(a) if a complaint in respect of the action is duly made to the Ombudsman by any person or body of persons, whether incorporated or not, alleging that the complaint has sustained injustice in consequence of a fault in administration;

(b) If the President, a Minister or a member of the National Assembly or of the National Congress of Local Democratic Organs requests the Ombudsman to investigate the action on the ground that a person or body of persons specified in the request has or may have sustained injustice;

(c) in any other circumstances in which the Ombudsman considers that he ought to investigate the action on the ground that some persons or body of persons has or may have sustained such injustice.

(3) The Ombudsman shall not investigate under this Subtitle -

(a) any action in respect of which the complainant has or had -

(i) a remedy by way of proceedings in a court; or

(ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a court; or

(b) any such action, or action taken with respect to any such matter, as is excluded from investigation under article 193;

Provided that the Ombudsman -

(1) may conduct an investigation notwithstanding that the complainant has or had a remedy

by way of proceedings in a court if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;

- (ii) shall not in any case be precluded from conducting in the investigation in respect of any matter by reason only that it is open to the complainant to apply to the High Court for redress under article 153(1) (which relates to redress for contraventions of provisions for the protection of fundamental rights and freedoms).

(4) In determining whether to initiate, continue or discontinue an investigation under this Subtitle the Ombudsman shall, subject to the foregoing provisions of this article, act in accordance with his individual judgment and in particular, and without prejudice to the generality of the foregoing, he may refuse to initiate, or may discontinue, any investigation if it appears to him that-

- (a) the complaint relates to action of which the complainant has had knowledge for more than twelve months before the complaint was received by the Ombudsman;
- (b) the subject matter of the complaint is trivial;
- (c) the complaint is frivolous or vexatious or is not made in good faith; or
- (d) the complainant has not a sufficient interest in the subject matter of the complaint.

(5) The authorities other than departments of government to which this article applies are -

- (a) any authority empowered to determine the person with whom any contract or

class of contracts shall be entered into by or on behalf of the Government of Guyana; and

(b) such other authorities as may be prescribed by Parliament.

(6) For the purpose of this article the Judicial Service Commission, the Public Service Commission, the Teaching Service Commission and the Police Service Commission shall not be regarded as departments of Government.

(7) For the purposes of paragraph (2) (a) a complaint may be made by a person aggrieved himself or, if he is dead or for any reason unable to act for himself, by any person duly authorised to represent him.

(8) Any question whether a complaint or a request for an investigation is duly made under this Subtitle or any law enacted in pursuance of article 195 shall be determined by the Ombudsman.

(9) Where a complaint or request for an investigation is duly made as aforesaid and the Ombudsman decides not to investigate the action to which the complaint or request relates or to discontinue an investigation of that action, he shall inform the person or body of persons who made the complaint or request of his decision.

(10) In this article and in article 193 "action" includes failure to act and "action taken" shall be construed accordingly.

193. The Ombudsman shall not investigate any such action, or action taken with respect to any such matter, as is described hereunder:

(1) matters certified by the President or a Minister to affect relations or dealings between the Government of Guyana and any other Government or any international organisation;



- (ii) action taken for the purposes of protecting the security of the State or of investigating crime, including action taken with respect to passports for either of those purposes;
- (iii) the commencement or conduct of civil or criminal proceedings in any court;
- (iv) action taken in respect of appointments to offices of other employment in the service of the Government of Guyana or appointments made by or with the approval of the President or any Minister, and action taken in relation to any person as the holder or format holder of any such office, employment of appointment;
- (v) action taken with respect to orders or directions to any disciplined force or member thereof as defined in article 154;
- (vi) the exercise of the powers conferred by article 188;
- (vii) the grant of honours, awards or privileges within the gift of the President;
- (viii) action taken in matters relating to contractual or other commercial dealings with members of the public other than action by an authority mentioned in sub-paragraph (a) of article 192(5);
- (ix) action taken in any country outside Guyana by or on behalf of any officer representing the Govern-

Government of Guyana or any officer of that Government;

- (x) any action which by virtue of any provision of this Constitution may not be inquired into by any court.

194.(1) After conducting an investigation under this Subtitle the Ombudsman shall inform the department or authority concerned of the result of that investigation and, if he is of the opinion that any person or body of persons has sustained injustice in consequence of a fault in administration, he shall inform that department or authority of the reasons for that opinion and may make such recommendations for action by that department or authority as he thinks fit.

Ombudsman's function on concluding an investigation, and reports to the Assembly.

(2) After conducting an investigation under this Subtitle in pursuance of a complaint or a request for an investigation made by the President, a Minister or a member of the National Assembly or of the National Congress of Local Democratic Organs, the Ombudsman shall -

- (a) if he is of the opinion that the complainant or, in the case of an investigation conducted in pursuance of such a request, the person or body of persons specified in the request has sustained injustice in consequence of a fault in administration, inform the person or body of persons who made the complaint or request that he is of that opinion and the nature of the injustice that he considers has been sustained.
- (b) if he is of the opinion that the complainant or, in the case of an investigation conducted in pursuance of such a request, the person or body of persons specified in the request has not sus-

tained injustice, inform the person or body of persons who made the complaint or request that he is of that opinion and the reason therefor.

(3) Where the Ombudsman has made a recommendation under paragraph (1) and within a reasonable time thereafter no action has been taken which appears to the Ombudsman adequately to remedy the injustice, he may lay before the Assembly a special report on the case.

(4) The Ombudsman shall annually lay before the Assembly a general report on the performance of his functions under this Subtitle.

Power of Parliament to make supplementary provision.

195. Parliament may make provisions for such supplementary and ancillary matters as may appear necessary or expedient in consequence of any of the provisions of this Subtitle including (without prejudice to the generality of the foregoing power) provision -

- (a) for the procedure to be observed by the Ombudsman in performing his functions;
- (b) for the manner in which complaints and requests for investigation shall be made to the Ombudsman and for the payment of fees in respect of any complaint or investigation; and
- (c) for the powers, duties and privileges of the Ombudsman or of other persons or authorities with respect to the obtaining or disclosure of information for the purposes of any investigation or report by the Ombudsman.

196. In this Subtitle -

Interpretation.

"complainant" means the person or body of persons by or on whose behalf a complaint under this Subtitle is made; and

"fault in administration" includes, without prejudice to its generality, any contravention of article 149 (which relates to discrimination on grounds of race, place of origin, political opinions, colour or creed).



