



Ambudsman Report

2016 - 2017

REPORT

RESOLUTION

INVESTIGATE

COMPLAINT

King Village: Oh Gad!

Sea View Farm. De place wey dem mek “muddy man” and Oh Gad! In the early days, the potters would “saddle up” their jackasses, “pack up” the donkey boxes with their earthen wares and go from village to village, crying out, “Geeet (pronounced gate) you’ coal pat! Geeet you’ jar pot! Geeet you’ flowers pot, yabba and wash tub! As papa Sammy said in the book, *To Shoot Hard Labour*, the people of Sea View Farm “*make pots of all kinds and description and they get to be known as the king Village*” (168). There was a Pot Market in St. John’s. However, since the village had about four hundred (400) potters – males and females – according to the voters’ list, 1948 they had to find “eddar” means of hawking their wares. In case persons are wondering what is Oh Gad! it is the coal pot, still in use today. Rumours say those were the first words to fly out of a person’s mouth when “de coal pot drap, brap!” Oh Gad!

Sea View Farm has an important history. This area of Clarke’s Hill estate was known as “Government House”. Governor Ashton Warner, owner of the estate through marriage, built his residence there. It was leased by the House of Assembly as the residence for the Leeward Island Governors, including Sir William Mathew, who lived there at the time of King Court’s revolt, and Sir Ralph Payne, Lord Lavington. It was the first independent village to emerge after the emancipation of slavery, 1834. Bathsheba, an ex-slave after whom the burial ground at Lebanon was named, moved to Sea View the Village on 1st August, 1834. It was also called Lavicount Farm, Lavicount Village, Sea View, and Sea View the Farm. *Sea View, The Farm* was a farm owned by Maria Augusta Lavicount. She purchased that area of Clarke’s Hill estate in the 1820’s. It was also called Lebanon Village after the Moravian mission station there. However, only the name King Village was linked to its main industry, pottery. It was not only Papa Sammy but also Canon Lane who confirmed this peculiar name and its link to pottery. However, they did not give any reason for this nomenclature.

What was the link between the King and Sea View Farm’s pottery? Which King? Perhaps, it can be explained by the origin of the art. Papa Sammy was of the view that the people from Farm acquired the art around 1690 – 1700’s; the beginnings of the African Slave Trade. In fact, the process of pottery making in Sea View Farm resembled that of the Asante (Akan) from the cornsticks, rag, smoothing stone, scraper down to the pounding and “feeling” of the clay and the firing of the pots. At the time of the slave trade, only the Asante Queen mother and her daughters were potters. It was a royal profession. Members of the royal family were not immune from capture. It is therefore quite possible that a member of that royal household was enslaved on one of the estates in the vicinity of Sea View Farm.

Examine, if you will, the King Court revolt, 1736 to blow up Government House at Clarke’s Hill. At the meetings at Stony Hill’s ravine, Frances Lenaghan, *Antigua and the Antiguan*s, mentioned an old obeah woman named Morah. However, according to the official records, there were two (2) obeah men, John Obia and Secunda. In all probability, they were medicine men or African priests. Obeah men, priests of the dark art, were often ostracized, as the bocor in the Haitian Vodun religion. Therefore, given the Asante/Akan society was matrilineal, Morah could have been the Queen mother presiding over this event which should have culminated in the establishment of an Asante/Akan kingdom on Antigua. Morah, perhaps a member of the royal household, would have known about the red clay on Stony Hill’s estate and the other type of clay at Renfrew’s and Emerson’s parts of Clarkes Hill estates. This belies an assertion in the *Antigua Newsletter* newspaper that the people of Sea View Farm were called “potters” because they got the clay from Potters Village.

Sadly, pottery is now a dying art. Fewer than ten (10) persons continue to make “kooka pot”. The heat from the kiln and the work involved seemed a deterrent to young persons. However, the art is worth preservation. Perhaps, it can be given a new lease on life through education and tourism. We must preserve the vestiges of our African Heritage. King Village! Oh Gad! A FARM ME COME FRAM!

Written by: Marion Blair, Ph. D



Office of the Ombudsman
Annual Report
Of
The Ombudsman for
Antigua and Barbuda
2016-2017

Prepared for laying before each House of Parliament pursuant to section 21 (1) of the Ombudsman Act, 1994 No. 5 of the Laws of Antigua and Barbuda.

Date: 28th December, 2017

Our Reference: 344/OMB 1/3/2017

Honourable President of the Senate
Parliament
Parliament Building
Parliament Drive
St. John's
Antigua

Dear Madam President,

I have the honour to present the Annual Report which covers the period 1st September, 2016 to 31st August, 2017.

The report is submitted in accordance with Section 21 (1) of the Ombudsman Act, 1994 No. 5 of 1994 which states:-

“The Ombudsman shall report annually upon the affairs of this office to the President of the Senate and the Speaker of the House of Representatives, who shall respectively cause the report to be laid before each House of Parliament if it is in session or, if not, at the next ensuing session.”

Yours respectfully,


Marion Blair Ph.D
Ombudsman

MB/rg

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Yours respectfully,


Marion Blair Ph.D
Ombudsman

MB/rg

MOTTO

“To champion the rights of the people, to ensure that justice always prevails.”

MISSION STATEMENT

The Office of the Ombudsman pledges with God’s guidance to faithfully serve the nation of Antigua and Barbuda by impartially and efficiently investigating complaints of members of the public against unjust administrative decisions of officers of Government or Statutory Bodies with a view to righting wrongs and so contribute to good governance and the further development of the democratic process in the country.

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Foreword

Everyone is equal before the law. However, not everyone receives that equality before the law. Over the past year, it was my duty to ensure that persons were treated fairly regardless of their status, colour, gender, religion or political affiliation. Some of the complaints were trivial. One complaint clearly had malicious intent. However, overall, the citizens had legitimate complaints, some of which had gone on for years, without a resolution. Justice can be painfully slow at times.



As Ombudsman, my duty was to ensure that justice prevailed; that each and every aggrieved person had a voice. It was, perhaps, unrealistic to hope for a settlement or closure of all sixty-seven (67) complaints, given the extenuating circumstances. I hope to continue in 2017-2018 to press for speedy conflict resolutions; to demonstrate our policy of independence, confidentiality, and accessibility; to educate the public on the functions of the Office, and to help in fostering a just and fair society. I intend to continue with my humanitarian efforts, placing special emphasis on the penal system.

Finally, I hope this report meets all expectations. I also hope it will enlighten and highlight the issues that are inhibitive and restrictive to carrying out the functions of the Office. In 2017-2018, I pledge to continue to champion the rights of the citizens so that justice always prevails.

Yours Respectfully


Marion Blair Ph.D
Ombudsman

Introduction

I was appointed to the Office of the Ombudsman on the 1st September, 2016 – two (2) years after I retired from the Civil Service. I must admit I had only a cursory knowledge of the function of the Ombudsman. I knew it had something to do with complaints handling because a Canadian researcher lodged a complaint against me, with my predecessor, when I was the Director of Archives. The researcher wanted access to a fragile 1856 birth register. The only information he had was the name of the child. Having explained to him that he needed the name of the mother since children of African descent, born to unmarried parents, were not named before 1880, he proceeded to the Office of the Ombudsman. She intervened on his behalf. However, when the register was duly produced and the researcher saw that not only were the children of African descent not named but also that the entry in the column “**Father Name**” was either “*illegitimate*”, “*baseborn*” or “*out of wedlock*”, he was very apologetic. For him even this was a valuable lesson – a lesson in how discriminatory and racist government could be. Perhaps our foreparents needed the services of an Ombudsman. I was otherwise clueless about the Office I was about to fill.

It meant I had to learn the profession, and learn it quickly. Once the announcement was made, the citizens who crossed the threshold expected the Ombudsman to know the craft. Therefore, my first order of business was to familiarize myself with the *Ombudsman Act, 1994*. It delineated my function as being, in essence, the defender of the people against maladministration by government departments and statutory bodies. It intimated that I was also the protector of Human Rights as well as the promoter of good governance and democratic principles. It soon became apparent, from the complainants that the Office meant much more than complaints handling.

The citizens expected the Ombudsman to be a counsellor, advisor, mentor, teacher, a keen listener, a sympathizer, able to show empathy and overall concern for their wellbeing.

I soon learned, however, that the complaints were not confined to those who were aggrieved by government institutions and statutory bodies. There were complaints against private individuals and private institutions – a church fence which blocked access to a residence; a contractor whose fear of height caused him to erect the wrong roof on a house situated at the side of a steep hill; a lady who spent her savings on a sewing machine only to find that it did not work, and the lady who wanted to know whether the Ombudsman can investigate a “wicked and corrupt Judge”. There were complaints against commercial banks, family matters, a private company which paid late dividends, tenants and landlords and auto-repair shops. There are agencies which handle such complaints. Therefore, they were referred to the appropriate authorities. But it was not uncommon for some persons to return when a resolution seemed distant or non-existent. Of course, the Office of the Ombudsman is the Office of last resort.

No Own Initiative

Unlike many of the other Caribbean Islands, the *Ombudsman Act, 1994* does not provide for “**own initiative**” also called “**own motion**”. It provides solely for individual complaints. This may not be in the best interest of good governance. As Kimweri explained, “*Waiting for clients to complain has the effect of leaving unchecked those acts of maladministration with respect to which no one has complained*”. He added that “*the power of an Ombudsman to initiate investigations on his or her own motion is an important aspect of an Office’s function especially to an aggressive Ombudsman Office* (Kimweri 1993, 59). The individual complaints I have received, in accordance with the Act, related to delayed pension or incorrect computation; being overlooked for promotion; the awarding of small contracts; road

maintenance; land leasing woes; sale of land; excessive taxes, and acting allowances for some civil servants.

What was quite noticeable, over the year, was the repetitious or recurrent nature of the complaints against some Ministries – for example, the Ministry of Agriculture which is charged with the leasing of Crown lands to the citizenry for agricultural purposes. The problem was not just a case of a farmer cultivating the “road” and denying access to other plots. There were complaints of encroachment to the extent where a farmer uprooted the crops of another and promptly substituted them with her own. The issues underlying these conflicts seemed to stem from:

1. The *Agricultural Small Holdings Act, 1939*, which has not caught up with the times.

The supporting acts, the *Small Tenements Act* (1892) and the *Small Trespass Act* (1892) were even more dated and out of step with the 21st Century.

2. There needs to be a new policy for the demarcation of plots.

These conflicts seemed to drag on for years as shown in the case “*A Female Farmer’s Plight*” in the **Summary of Individual Cases**.

Conflict Resolution

The failure to resolve these conflicts quickly is not new. Years ago, 1999, Dr. Hayden Thomas, the first Ombudsman, in his report of that year, lamented the tardiness of some Ministries in resolving conflicts. He wrote, “*While we do succeed in many instances, there are occasions when we cannot help but feel that some Ministries do not make the necessary effort to resolve disputes speedily. This leads to frustration and the conclusion by some complainants that they should seek other forms of redress...*” (9)

Take, for example, the case of this complainant.

Case Study

Ms. A has been employed by the Ministry of Tourism since 1995. There is a Cabinet Decision listing the names of the ten (10) employees, including the complainant, their salaries and travelling allowances. The complainant said she never received the travelling allowance. Further, she had upgraded herself having pursued several subjects at the CXC level as well as an Associate Degree. Having tried everything, in 2014 she sought the intervention of the Office of the Ombudsman. When she started 1995, her salary was one thousand dollars (\$1,000.00) plus a travelling allowance of two hundred dollars (\$200.00) monthly, which she said she never received. In August 2017, her salary was one thousand three hundred and eighty dollars (\$1,380.00), a raise of a mere three hundred and eighty dollars (\$380.00) in twenty-two (22) years, and this despite her qualifications. This case is ongoing. However, there has been a partial resolution in the matter. She has received a raise. The Office is still awaiting a resolution in the matter of her travelling allowance.

Complaints seemed to take an inordinate amount of time to be resolved. Why? Michael Hill is of the opinion that this lethargy may be attributed to “**A Culture of Blame**”. He opined that “*the wrong internal culture can also inhibit an organization’s ability to manage complaints effectively.*” In this “*Culture of Blame*” everything “*becomes personalized*”, and complaints are construed as “*personal mistakes and errors rather than understanding that causes are often driven by flaws in the process...*”. (Hill, 2012, 175-6). Therefore, complainants often blame mistakes and failures on government officials. The officials are often quick to deny any wrongdoing and sometimes impute blame to the complainant themselves. In fact, the real problem may very well be the systemic flaws that are sometimes embedded in or inherent to the system. Abedin’s advice to the Civil Service is noteworthy. He advised that they “*must admit administrative fallibility and the rights of the public to demand higher standard of administrative performance. If wrong has been done, the offending agency is expected to correct its error and devise ways to prevent recurrence.*” (Abedin

1986, 343). Officials can and do make mistakes. However, complaints should not be construed as personal criticisms and attacks. Sometimes, they are mere indicators that the system may be due for an overhaul.

They do not talk anymore.

One of the problems inhibiting good governance is the *lack of communication* between Ministries. It is also a clear and present problem even between divisions within the same Ministry. The departments of government seem to have developed a culture of not speaking to each other on issues of shared concern. The case summarized below, in **Summary of Individual Cases**, entitled “*Whose Fault Is It?*” is a classic example of the lack of communication between government ministries/statutory bodies. The outcome is that not only does it affect public confidence in government but it:

- is costly;
- undermines the integrity and credibility of government officials;
- diminishes government in the eyes of its citizens, and
- leaves officers open to accusations of maladministration.

It would appear that some government officials have misconstrued the sharing of information as a relinquishment of their authority and autonomy. Consequently, when that autonomy appeared threatened, the “cards” are held even closer to their chests. Even the Office of the Ombudsman had to make several requests before it could wrest pertinent information from some custodians of government records and some managers of the government offices. Proper records management formed a large part of the problem.

***Good Management bettah than big wages
-Antiguan Proverb***

Records Management - the Handmaid of Good Governance



As the Government's Archivist, 1996-2014 a request was made to one of the former Prime Ministers to establish a **Records Management Center** for the storage of semi-current and non-current records. The registries had not grown apace with the increase in government records. Often, these "old" records were dumped into untreated cardboard boxes and stored with other discarded equipment in dusty and dank backrooms infested with roaches, rats and other vermin. Mould and mildew proliferated. Consequently, members of staff were often reluctant to initiate searches among these discarded records. It was not uncommon to learn that files were "misplaced", "missing" or "cannot be found". For persons whose pensions, for example, were dependent on the information therein, it could be a frustrating and exasperating experience.

A Case Study

A watchman/security guard complained to the Office of the Ombudsman that his pension and gratuity were computed incorrectly. The Ministry of Public Works claimed that the commencement date of his employment was 2002. However, the complainant was adamant that at the time hurricane Luis struck Antigua/Barbuda, 1995 he was the watchman, as they were called then, at the All Saints School. He said he was subsequently transferred to another school that was more severely damaged by

the storm. His Supervisor confirmed his account. However, according to the records at the Ministry, he was not even in their employ.

Upon investigation, it was discovered that he had contributed to the Antigua and Barbuda Social Security Board (SSB), intermittently, during 1995, and 1997 while in the employ of the Ministry of Public Works. It meant searching the “old” records that were housed in several offices at the Public Works Department. The Investigations Officer, Ombudsman Office, unearthed an “Arrears Book” from the period. However, the dates were even more intermittent than his contributions to the Social Security Board. The Arrears Book clearly showed the complainant receiving payments well before 2002. However, the first page of the Arrears Book had no date. The Ministry explained that for the appropriate adjustments to be made to his pension and gratuity, it needed a clearer chronological history of the complainant’s employment at the Ministry of Works. This required initiating further searches among the “old” records. This case has been ongoing since 2014.

There is an urgent need for Ministries to manage their records properly. Transparency, efficiency, honesty and integrity in government are undergirded by proper records keeping and proper records management. Only the records can prove or disprove accusations of maladministration. Government must always be able to withstand the scrutiny of its citizens.

The **recommendation** for a **Records Management Center** stands. Losing vital records should not be an option. Had that request been granted, the **National Archives** would not only have found a temporary home but it could have operated from the Center until the present structure had been extended and properly refurbished. Vital records and archives must be protected. Good governance is dependent upon it.

Know the Law

The Ministry officials ought to be more familiar with the laws governing their institutions as well as with other laws to include, but not limited to, the Labour Code and the Civil Service Rules and Regulations, 1993. Indeed, many civil servants were unable to explain, to the public, the legal aspect of their decisions or the law the complainant had infringed. The Canadian tutors of the course, *Sharpening Your Teeth*, encouraged us to read the *Ombudsman Act* once a month.

One of the common complaints against government departments / statutory bodies, for example, was their failure to respond to letters of inquiries or complaints. Civil servants are there to serve the public. It is therefore imperative that they receive a response to their queries in a timely manner. The Civil Service Rules and Regulations, 1993 for example, make it obligatory for heads of government departments to respond in a reasonable time. Section 129 (1) states: “*Permanent Secretary shall ensure that he acknowledge as soon as possible any correspondence addressed to the Ministry by any person*”. Sometimes, even the Office of the Ombudsman must remind government officials of their obligation under this law. It is only “mannersable”, as our foreparents would say. Of course, they would also have added, “*Manners maketh the man*”.

Staffers’ Discontent

There were clear signs of frustration, anger and bitterness among some complainants. There was also a latent fear of victimization and/or discrimination. For example, there was this case of a junior staffer.

A Case Study

The complainant has been employed as a Junior Clerk for many years. He said that despite his academic achievements he had been overlooked, constantly, for promotion. He asked the Office to intervene on his behalf. He had exhausted each and every avenue of redress except an appeal to the Public Service Commission (PSC). He was

advised to seek an audience with that body, which he did. The complainant said he prepared for the interview. He said that the meeting had the appearance of a termination hearing. He claimed his Superior had written to the PSC, and had painted him in a very negative light. He said when he presented the documentary evidence he brought to the meeting not only did the PSC find the complaint against him to be spurious but he was also promoted, forthwith, from Junior Clerk, not to Senior Clerk, but to Executive Officer at a different Ministry. You see, for years he had been performing the duties of an Executive Officer but without the promotion or the remuneration. His complaint, he felt, almost cost him his job.

It was therefore not surprising that some persons were fearful of complaining to the Ombudsman. Some persons, in timidity, called the Office to ascertain whether their matter could be investigated anonymously. There were those who asked others to call on their behalf. However, the Ombudsman Act clearly stipulated the complaint must be made by the individual, and in writing. Complainants cannot be given anonymity under the current law where Heads of departments/statutory bodies must be informed of any investigation into their institutions as well as give their approval to any site visit to their organizations. So many staffers suffer in silence. There were also those persons who saw the failure of others as a reason to remain silent. In the case, “A Breath of Fresh Air”, in the **Summary of Individual Cases**, for example, because the matter had dragged on for years other householders felt it was futile to complain. They feared nothing would become of their complaint. Since the closure of that auto-repair shop, there have been more complaints against those establishments.

Seein’ is believin’ but feelin’ is de naked trut’

Antiguan Proverb

Causes for Concern

There were three (3) issues which attracted my attention and caused concern during the year 2016 – 2017.

1. The first was a **Human Rights** issue relating specifically to the **rights of children with disability**. In the early days of my tenure, a child was expelled from a Primary School because of a disability. The Ministry of Education resolved that matter expeditiously. Then the issue of the dismissal, and subsequent re-

instatement of the “Sign Language Interpreter” on “ABS TV” reached my Office. Despite a Special report, the Ministry of Information has yet to resolve that matter which has been ongoing since 2015. The absence of the Sign Language Interpreter continues to affect children with hearing disability. There needs to be a resolution in this matter.

2. The second matter was related to the ***client/solicitor relationship***. Over the year, several complainants came to my Office frustrated by the efforts, or lack thereof, of their solicitors. One frustrated and angry complainant said he had been referred by his solicitor. He had two (2) issues. The first matter was non-jurisdictional – a matter that was before the Police. The second matter was work related. He was, therefore, referred to the Labour Department. Apparently, this issue between the Solicitor and client is not new. Ombudsman Dr. Hayden Thomas wrote, perhaps as early as 1998: *“So often people report to me, for example, that after they have paid fees to their solicitors they (the complainants) find it difficult to get appointments with the solicitors. In frustration these complainants come to my Office seeking assistance.”* (Ayeni, Rief, Thomas 2001, 141). The Office is here to assist all complainants. However, solicitors should ensure the matter is jurisdictional and that the referral is made to the correct agency. There is also a timeframe in which complaints can be brought to the Office.
3. ***Sexual Harassment*** in the workplace against which I have found no law.

Good wo’d good, good deed bettah
Antiguan Proverb

A Congratulatory Word

I wish to use this opportunity to congratulate **Antigua/Barbuda's first CXC graduate with hearing disability**. The fifth form student, mentioned in the case, ***Children have Rights, too***, was successful in a number of subjects at the recent CXC Exams. It showed that with encouragement and provision of the necessary assistance it is possible for each and every child to achieve his or her fullest educational potential. As a former teacher, I am exceedingly proud of this student, as I am of all students. For despite many obstacles, she performed creditably and is an example or a model for the younger students. Congratulations to her parents. The rights of children with disability must be protected and respected. (See Appendix 1).

To the first CXC graduate with hearing disability, as well as to students with disability preparing to enter Secondary School, and to all students in Antigua and Barbuda, I leave with you these words of encouragement. They are from a poem written by Christina Rossetti entitled: **Up - Hill**.

Does the road wind up-hill all the way?
Yes, to the very end.
Will the day's journey take the whole long day?
From morn to night, my friend ...
Shall I find comfort, travel –sore and weak?
Of labour you shall find the sum.
Will there be beds for me and all who seek?
Yea, beds for all who come.

Keep striving upwards. You will better appreciate your successes.

My Sincere Appreciation



I wish to thank the members of Parliament for the confidence they have shown in appointing me Parliamentary Ombudsman. I also wish to say, Thank You, to members for their kind words and best wishes at my first session of Parliament. I look forward to your continued support. Thank you for all the assistance given toward my training overseas.

My thanks and appreciation to those who stood by me in this my “teething” year. To the Heads of Ministries and Statutory bodies, who provided the information requested, and took the time to explain their roles and functions, I wish to say, Thank you for your kind assistance. Please! I am not a threat. I only want to help you with your problems so they do not escalate into strikes, sit-ins, sick-outs and overall dissension and confusion.

A special Thank you to my predecessor and mentor, who gave me a “crash course” in Ombudsmanship. I truly appreciate the assistance.

I could not make it without the help of my staff. They are an excellent group. I look forward to your continued support as we “champion the rights of the people”. With God’s help and your assistance, “justice” will prevail.

Howdee and Tenkee cos’ no money an’ bruk no bone

Antiguan Proverb

I received this letter of thank you from a complainant:

2017MAR23

Ombudsman
Government of Antigua and Barbuda,
Government Complex, St. John's, ANTIGUA.

Dear Ombudsman,

**THANK YOU FOR THE IMPORTANT, ENGAGING, & USEFUL
MEETING**

Thank you for the important, engaging, and useful meeting held 2016SEP or thereabout. In this meeting we gave consideration to the remit of the Ombudsman and the matter of my employment benefits within the context of the document, "A Cry For Justice Key Facts".

Please continue to meet and treat with others as you did with me.

Since meeting with you I met with the Solicitor General, the Chief Establishment Officer, and the Chairman of the Public Service Commission (PSC). The Chairman, PSC, has located relevant documentation supporting my claim and has taken actions to resolve the matter.

I hope we will have occasion to reflect on the important role of the Ombudsman in the context of providing excellent performance in the public service.

Yours sincerely,

Thank you for thanking me.

Learning the Ropes: Educating the New Ombudsman

Education is important. For a new Ombudsman it is paramount, imperative and even crucial. For the role of the Ombudsman is not just about complaints handling. The Ombudsman must also educate the public about the role and functions of the Office as well as on a range of issues such as good governance, Human Rights, and democratic values. It was specifically for this reason Michael Hill suggested that the Office of the Ombudsman “develop and maintain a framework that will instill and support a culture of learning across the Organisation” (102). For the year 2016-2017, the education of the new Ombudsman was given priority.

Sharpening your Teeth

In October, 2016 I attended a workshop in Ontario, Canada - *Sharpening your Teeth – Advanced Investigative Training for Administrative Watchdogs*. It was held from October 24th – 26th, 2016. There were eighty (80) attendees from Canada and the rest of the world. The main focus was on Systemic Investigations. The topics covered included:

- Conducting systemic investigations.
- Principles of effective investigations.
- Planning an investigation.
- Interviewing witnesses.
- Gathering and assessing evidence.
- Writing a persuasive report and recommendations.
- Getting your message out.

Systemic failures or flaws, if left unregulated or unchecked, can erode public trust and confidence in government. The point of the workshop was to stress the importance of identifying systemic problems and implementing such measures and procedures that would prevent their recurrence.

CAROA – A Bit of an Ambivalence



CAROA – Bonaire 2017

The 9th Biennial meeting of the Caribbean Ombudsman Association (CAROA) was held in Bonaire, Netherlands Antilles, June 11th – 17th, 2017. Antigua was represented by the Ombudsman and the Assistant Investigations Officer. The meeting was divided into two (2) sections – The General Conference and a Training Workshop held under the auspices of the International Ombudsman Institute (IOI) and the Queen Margaret University, Scotland.

The General Conference

The General Conference was held under the theme *“The Ombudsman – A Key Actor in the Quest for Good Governance/Challenges Facing Modern Day Ombudsman”*. The first segment of the conference, dealing with the quest for good governance, was inspiring, encouraging and reassuring for a new Ombudsman. Not so the second segment. This section, which dealt with the *Challenges Facing Modern-Day Ombudsman*, was discouraging, perplexing and a cause for apprehension. For it painted a bleak picture not only of the Office but also of what any new Ombudsman should expect. The challenges identified included:

- Open hostility and threats to the lives of Ombudsman and staff.
- Threats to the independence of the Office of the Ombudsman.

- Lack of Parliamentary support.
- Lack of government's response to the Ombudsman annual report.
- Failure of government to implement any of the recommendations of the Ombudsman.
- Undermining of the Office by officers of government.
- Failure to vote sufficient finances to run the Office.
- Tardiness in getting documents from government departments and statutory bodies.
- The time lapse between one Ombudsman demitting office and the appointment of a successor.

Death Threats and Obstruction?

This was not a good initiation for a new Ombudsman. The literature did not help. For apart from the threats to the lives of the Ombudsman and staff, everything else seemed commonplace. The challenges identified seemed to be systemic problems inherent to the Office of the Ombudsman. An article by Abedin, for example, entitled *Ombudsman in Developing Democracies; the Commonwealth Caribbean Experience*, showed that Caribbean Ombudsmen had been complaining about these very issues since the transplantation of the Office into the region. He quoted Justice Kerr, the Ombudsman of Jamaica, as saying, 1992: *"Simply put, it is the business of the Legislature which created the Office to give it such credibility as would prevent a perception of the Office as a 'toothless tiger'"*. Ombudsman Rees of Trinidad and Tobago lamented *"that Parliament had never bothered to debate a single one of the five (5) Annual Reports, and one Special Report, he has issued so far"* (237). There were complaints from the Ombudsman of each and every Caribbean island including Antigua/Barbuda. The Office clearly was not functioning as it ought.

This elicited several questions. Why the perceived antagonism between the Office of the Ombudsman and the Government/Parliament? Why did the writers of the

Constitution opt for its inclusion if only to denigrate, ignore and not support its efforts? Clearly, the Ombudsman was not being treated fairly by the Government. Since these issues seemed systemic and Parliament was the Ombudsman's highest "Court of Appeal", if the Office and Parliament were at loggerhead then to whom should an aggrieved Ombudsman complain? For if systemic issues undermine public trust and confidence in government ministries then, by extension, they must also undermine public trust and confidence in the Office of the Ombudsman. This may, in fact, be the reason why a complainant referred to the Office as being a "eunuch".

The absence of many Caribbean Ombudsmen from the Conference in Bonaire, some because of these very reasons, seemed to confirm that the Office of the Ombudsman was under serious threat. Haiti was absent because of financial issues. Belize attended only through financial assistance from IOI. Some Ombudsmen were awaiting parliamentary confirmation. Others were recently appointed after a long hiatus; in the case of Guyana after seven (7) years and Antigua/Barbuda after nearly two (2) years. Some islands, like St. Kitts/Nevis, were yet to name successors. The Conference barely had a quorum to vote on the business of the Association for the next two (2) years. In addition, one Ombudsman, who had recently demitted Office, reported she had won her case, in Court, over jurisdiction in a matter. While another Ombudsman had been taken to Court apparently being sued over access to the documents the Office had in its possession. The Office of the Ombudsman seemed under siege. It was not very reassuring to a new Ombudsman.

However, in the midst of great despair and internal conflict, there came a soft, reassuring voice. It was that of a colleague, an Investigator. She said to me, "you will not win every case. However, you can take comfort in the small victories and in the smiles of appreciation of those whom you have helped. Take one case at a time, and do your best." Helping others was key to the Office of the Ombudsman.

Antigua/Barbuda was elected to the Board of CAROA 2017-2019.

The Training Workshop / Bonaire

The Training Workshop, held under the auspices of the IOI and Queen Margaret University, examined *Complaint Diagnosis and Assessment*. It looked at:

- Defining a complaint.
- Establishing jurisdiction.
- Managing expectations.
- Investigation planning.
- Systemic investigation.
- The media.
- Gathering and Managing Evidence.
- Interviewing Skills.
- Making Proportionate Recommendations.
- Producing clearly written documents.



The emphasis was on managing expectations. It would appear that in some Caribbean islands, complainants expected a windfall at the successful conclusion of every complaint. Apparently, some Ombudsman Offices were authorized to award compensation. The conference sought to identify ways in which Caribbean Ombudsmen could handle or manage these expectations.

Public Administration International (PAI)



Attendees at the PAI Training in 2017

A workshop, *When Citizens Complain: For Ombudsman, Commissioners and Complaint handling organisations*, was held in London, June 26th – 30th, 2017. One of its aims was to “improve public services and promote good governance.” There were eight (8) participants – six (6) from Botswana (Investigators), one (1) from Uganda and one (1) from Antigua/Barbuda. Two (2) other participants, from Guyana, reportedly withdrew at the last minute. There were only two (2) Ombudsmen.

The benefits of the workshop are listed as follows:

- Broaden your knowledge of the concept and institution of the Ombudsman and variations of the Ombudsman model.
- Learn from the experience and expertise of UK Ombudsman offices, parliamentarians, lawyers, civil servants and leading scholars and practitioners.
- Improve your capacity to manage investigations, produce effective reports, communicate with the public and other key stakeholders and deal with the media.
- Make international comparisons and identify areas for developing and improving your own Ombudsman and complaint handling system.
- Develop practical skills in managing the business of your office.
- Familiarize you with how Ombudsman and complaint-handling organisations deal with complaints and redress grievances.

The facilitator of the workshop was Sir Tony Redman, a former Ombudsman. The course included a number of site visits, lectures and group work. Its focus was on the independence of the Ombudsman and the threats to the Office. The discussions were lively. There was much to learn from the Inspector General of Uganda, who wielded far more power than most Ombudsmen.

Oil and truth nebba drown

Antiguan Proverb

Out Reach Programmes

An Educational Visit with a Purpose

The Ombudsman visited three (3) Government Schools during the year 2016-2017.

The School for the Deaf and Dumb

The Office of the Ombudsman visited the School for children with disability to carry out an assessment of the effectiveness of the Interpreter, on “KSD TV”, in signing Sign Exact English (SEE). This was in relation to the case, “*Children Have Rights, too*”, in the *Summary of Individual Cases*. A teacher took on the role of the assessor while three (3) of the teachers’ aides were the “students”; same setting as with the Consultant. The lesson signed by the Interpreter was on the role and functions of the Office of the Ombudsman.

The outcome: The Interpreter was deemed proficient in SEE. There were several recommendations which included:

- The Interpreter should be allowed to practice the news before going on air, to enable her to choose the most appropriate sign. The Teacher explained/demonstrated that while some signs were the same they had different meanings depending on the context.
- The Interpreter should not be discarded. It would encourage the younger students to watch the news and familiarize themselves with the signs.
- The School recommended short programmes on signing to encourage both the students and interested individuals to practice the signs.

There were other recommendations by parents and teachers, all of which were included in the Special report to the Prime Minister.

Observations

The School for the children with disability was cramped in terms of space for the children. The small “house” served as the Principal’s Office, three (3) classrooms and a kitchen/lunch area. One classroom was closed; that for children with speech disability. There was a shortage of Teachers. They could use a few more computers as well as teaching aids. They need all the help they can get.

Invitations to Visit



The Ombudsman at Glanvilles Secondary School

The Ombudsman was invited to the *Willikies Primary* and the *Glanvilles Secondary Schools* to explain the role and functions of the Office of the Ombudsman. The Ombudsman made PowerPoint presentations. However, the lessons were inter-active. The discussions were lively and the questions showed the children grasped the function of the Office. In one case, a child asked whether she could make a complaint against her internet provider. The reception, she said, was virtually non-existent after 6 p.m. It gave the Ombudsman the opportunity to explain the channels of complaint; that the Office of the Ombudsman was the Office of last resort. These visits provided the Ombudsman the opportunity to be back in the classroom.

Humanitarian Visits



The Ombudsman at Clarevue Psychiatric Hospital

The Ombudsman visited the *Clarevue Psychiatric Hospital* and the *Fiennes Institute* (Home for the Elderly) as part of the Office's outreach programme. While there, the Ombudsman observed the conditions under which the staff worked – buildings in need of extensive repairs; insufficient security; poorly lighted surroundings etc. The nurses' quarters were badly in need of furniture and a little paint. Even the public waiting areas were dilapidated and in need of seating and paint. Everywhere there were signs of neglect. (See Appendix 2).

The Ombudsman also held meetings with the staff at both institutions. They raised their grievances with both the Management team as well as with the Government. They said they had been complaining for years. Some had even resorted to picketing the institution. Nothing had changed.



The Office is in the process of preparing reports on the visits to these institutions.

The Antigua and Barbuda National Archives



Repository at National Archives

There are no words to describe the situation at the *Antigua and Barbuda National Archives*. Abhorrent, horrendous, shameful, disgraceful all seem tame and even inadequate. At the time of my visit, the 19th century newspapers, and other records from that period, were standing in two (2) inches of water. During my tenure as Government Archivist, the repositories were safe, and the staff could operate safely from that section of the building. On the day of my visit, the repositories were long past woebegone – dark, dank, saturated with water, lighting fixtures did not work, and rends in the south-western and western walls leaked profusely.



The entrance to the building, that is, the exhibition and reading rooms, the floor was encased in mould and mildew. Apparently, the “builders” blocked the underground drainage system by paving them over with ceramic tiles. The water from the guttering, having nowhere to go, flooded the exhibition and reading rooms as well as the auditorium. While I was there, some members of staff were placing

absorbent papers between the leaves of some registers that were wet. The doors

did not sit on the floor. There was a yawning gap between both. Therefore, rats and other vermin have access to the building. Rats and papers! Even worse, was the old fire engine dumped on the front lawn of the National Archives to provide breeding place for these rodents. The National Archives has the appearance of abandonment.

History is not “bunk” as Henry Ford asserted erroneously. Marcus Garvey was right, when he said *“A people without the knowledge of their past history, origin and culture is like a tree without roots.”* As George Orwell warned, *“The most effective way to destroy people is to deny and obliterate their own understanding of their history.”* History will judge all of us.

I recommend **urgently:**

1. Removal and replacement of the south-western and western walls. They not only have rends (large cracks) but are also porous.
2. Employment of the services of experienced builders who understand the function and importance of the Archives building.
3. The builders work in conjunction with a trained and experienced Archivist.
4. The removal of the split air-conditioning units. The archives must be kept at a constant temperature and relative humidity. The split units, where persons can fiddle with the temperature or where some units do not work, will only exacerbate the problems of mould and mildew. Central air-conditioning unit is recommended.
5. The entire roof must be replaced. Sorry, but the newly replaced roof is already in need of replacement. It leaks profusely. The ceiling is already falling apart in some places.
6. The lighting fixtures must be recessed throughout the Archives. Light bleaches. There is a lux specification for archives.
7. Remove the paving tiles and re-establish the underground drainage system.
8. The government may be forced to condemn that building if the infestation of mould and mildew cannot be properly treated.
9. Remove the old fire engine from the front lawn of the building.

*Black and white nebba tell lie
-Antiguan Proverb*

Visitors to the Office

A Visit from the Ombudsman of St. Kitts – Mr. Walford Gumbs

Mr. Walford Gumbs, now former Ombudsman of St. Kitts/Nevis, paid courtesy call on the new Ombudsman 8th March, 2017. The discussion centered mainly on the upcoming CAROA meeting that was to be held in Bonaire as well as on some of the challenges facing Ombudsmen in the Caribbean.

Political Leader of the Opposition Party – Senator Harold Lovell

Political Leader of the Opposition, Senator Harold Lovell, paid a courtesy call on the Ombudsman on the 10th November, 2016. He extended his congratulations and best wishes. Senator Lovell is a former Sixth Form classmate.

The Staff

The Office said “goodbye” to Ms. Esther Henry, Investigations Officer and Mrs. Renee Patrick, Junior clerk, and welcomed Ms. Rondee Graham, Senior Clerk, Ms. Erica Peters, Junior Clerk, and Mr. Stephen Butters, Investigations Officer. The other members of staff include:

Ms. Joycelyn Richards-Wharton, Snr. Asst. Investigations Officer

Ms. Thomasine Henry, Asst. Investigations Officer

Mrs. Timika Burke, Research Officer

Mrs. Andrea Samuel, Petty Officer Cl II

Mrs. Antonia Jacobs, Cleaner

The staff attended several Training Workshops organized by the Training Division. The Assistant Investigator also attended the CAROA Workshop in Bonaire, 2017.

Summary of Individual Cases

The Complainant Who Cried Wolf

The complainant said that for the past four years he had been overlooked by the APUA in the awarding of small contracts to private contractors. He accused the statutory body of discrimination. He claimed they preferred to do business with a “gentleman from Middle Eastern ethnicity”. He appealed to the Ombudsman to intervene on his behalf.

However, when an investigation was initiated and the records were requested from and submitted by the Antigua Public Utilities Authority (APUA) they told a different story. They showed that not only had the complainant been awarded a contract for a substantial sum, a mere two months prior to his complaint, but that he was also in the process of tendering for a second contract.

When the complainant was presented with the evidence, he confessed to lying to the Ombudsman. He said he had knowingly removed and withheld the documentary evidence from among the other records he presented to the Office. When the complainant was told he violated **Section 22 (c)** of the **Ombudsman Act**, which reads: “*A person is liable on summary conviction to a fine of one thousand dollars (\$1,000.00) or to imprisonment of six (6) months who wilfully makes false statement to or misleads or attempts to mislead the Ombudsman,*” he became very contrite and apologetic.

The Outcome: The complainant was asked to write a letter of apology to the Ombudsman in lieu of punishment, which he did. He was also asked to write a letter of apology to APUA. Even though he brought it for perusal, it was not delivered. The Ombudsman asked the statutory body for magnanimity. However, he was barred from lodging any complaint with the Office during this present tenure. The

complainant should have realized he was far too old to emulate the “Little Boy Who Cried Wolf”

Hang Not Your Catacoo...

The matter of child support had been settled in the Family Court. The child was receiving a weekly support of one hundred dollars (\$100.00) EC from his father. However, the mother, the complainant, wanted a substantial increase in the sum. She claimed the child had started school and that she had chosen a “top-of-the-line” private school. The school fee was one thousand and fifty dollars (\$1,050.00) per term. The child was also attending private reading classes. She said her salary was three hundred and twenty dollars (\$320.00) weekly, which was not enough given her other obligations. She wanted the Ombudsman to intervene on her behalf. She wanted a substantial increase in the amount of child support as well as the garnishment of the father’s wages. She admitted the father had other children to support. He was a barber by profession.

The Outcome: The Office called the Court on the matter of the irregularity of payments. However, the complainant was advised that she should take the other matters back to Family Court. Since then, the Office had made several attempts to contact her by phone but to no avail.

A Female Farmer’s Plight

The complainant, a young lady, wanted to be a farmer. She applied to the Ministry of Agriculture to lease a plot of land for agricultural purposes. The complainant said that having received the plot, she expended a large sum of money on the clearing of the land, installation of water and the purchasing of seedlings. Then one of the neighbouring farmers decided to cultivate the “road”, denying her access to the plot. The complainant said that for four (4) years she sought a resolution in the matter. She said she watched in dismay and frustration, as “bush” reclaimed the land and

her fruit trees disappeared. She asked the Office of the Ombudsman to intervene on her behalf.

An investigation was initiated. The Ministry admitted the encroachment. They explained that the male farmer was cultivating lands issued to a relative. They said that for the past four (4) years they had been waiting for him to reap the crops planted in the “road”. However, by the time they returned to the area he had already replanted. They also claimed the bulldozer needed a “part”. Once the “part” was obtained, the Ministry promised to reclaim the road.

The Outcome: The road was cleared. The young female farmer has access to her plot. The Office tried unsuccessfully to get the Ministry to assist her in clearing the plot. After all, it was not her fault the plot was reclaimed by “bush”.

A Simple Matter

The complainant was a trained tax official. In his retirement, he continued to practice his profession by establishing a small tax company. The business was duly registered. He paid taxes to the Inland Revenue Department (IRD). According to the complainant, he received a bill for nine thousand dollars (\$9,000.00) in arrears. This, he claimed, did not add up. He said he complained to the IRD but he was told he had to pay. He said he was encouraged to make a payment plan. He claimed he requested a meeting with the hierarchy to discuss how they arrived at the sum. All to no avail. He, therefore, sought the intervention of the Ombudsman. All he required was a meeting with the IRD.

The Outcome: The Ombudsman arranged the meeting. The complainant returned to the Office to thank the Ombudsman for the intervention. He claimed the meeting resulted in a drastic reduction of the sum from nine thousand dollars (\$9,000.00) to eighteen hundred dollars (\$1,800.00). It was all about a simple matter: a meeting.

Whose Fault Is It?

The complainant, Mr. A, claimed he applied to the Ministry of Agriculture to purchase a small parcel of Crown land adjacent to his property. That was in 2006. However, it was not until 2015 that approval was granted. The complainant said he paid the sums and became the owner of the land. That was when his nightmare began. His property is situated within a National Park. According to the National Parks act, Sections 22 and 24, the sale of land within the Park must have the approval of the National Parks Authority (NPA). The complainant subsequently received a letter from the NPA, *Notice of violation of the National Parks Act CAP 290*, in which they threatened to sue the complainant because “the National Parks Authority never approve such transfer nor was the Authority consulted on this purported sale.” The complainant sought the intervention of the Office of the Ombudsman.

There was a previous case of a similar nature. The purchaser of a parcel of land within a National Park had been sued under Section 22 (1) and Section 24 (2) of the Act. The defendant lost the original case. However, he appealed that decision in the Eastern Caribbean Court of Appeal, and won. The Court documents showed that since 1984, lands in the National Park were sold without any consultation. The documents named a prominent individual who purchased land within the same National Park, without any consultation, but he was never sued. The Authority admitted there was not a clearly established procedure for such consultation. The Judges held that the “Crown cannot take the benefit of its own failure to consult the National Parks Authority (NPA) to set aside the Crown’s already concluded sale and transfer to Mr. B” Further, “the Act does not provide that a failure to consult renders a transfer of land invalid or the Act of so doing null and void.” (*Gaston Browne vs Attorney General of Antigua and Barbuda and the National Parks Authority*).

The Office sought a legal opinion to determine whether the Judge’s ruling applied to the complainant’s case – a precedent. The Solicitor wrote: *“In this case, Parcel [K]*

was vested in the Crown before its transfer to Mr. A. The Crown and not Mr. A would be under a duty to consult the National Parks Authority before Parcel [K] is transferred to Mr. A. The transfer would not be automatically void as a result of breach of section 24 (2) of the National Parks act.

National Parks Authority was reminded of the judgement in this case of 2010. The question remained. Would the National Parks Authority carry out its threat to sue the complainant under Section 22 (1) and 24 (2) of the act? The Office of the Ombudsman is awaiting a response from the Board of the National Parks Authority to this question as well as to a number of other issues including whether procedures have been put in place to address the issue of “consultation” between the Crown and National Parks Authority, and if there were other like cases before the Board.

The Outcome: The complainant thanked the Office of the Ombudsman for the intervention. He said that since the opening of the investigation, the photographing of his property, the regular visits by Security Officials/Park Rangers and correspondence from National Parks Authority have ceased. The Office is still awaiting a response from National Parks Authority to bring closure to this matter.

A Noise-Free Zone

The complainant said her neighbour, a shopkeeper, was using loud music to “drive” her from her land. She said that at one time the shopkeeper had some “big boxes” (speakers) in his shop which made her life miserable. Having reported the matter to the police, he was asked to remove the “boxes”. The complainant now claimed the shop-keeper was encouraging the young men of the village to park their cars in front of her home – music blaring – while they patronized his business. The complainant said that the shop-keeper should ask his patrons to turn off the music. She said she often gave the drivers twenty minutes and then called the Police. She said that quite often when the Police arrived the young men, having completed their business, had long gone.

The complainant also said there was a pipe near to her home where the young men would wash their cars and play their music aloud. She said she called the Police; that was now a thing of the past. She said she called the Police about the men who sat outside the shop, played dominoes, “drink” and listened to music. She got the rid of them, too.

The Police, the complainant admitted, responded to her each and every call. Except on “Monday and Tuesday” – presumably Carnival Monday and Tuesday. The complainant said that when she called the station about a noisy car, she was told the Police would soon be there. They never came. She said she called Police Headquarters, in St. John’s, where she was told the unit was in Town, on duty, and would get to her when they returned to the station. She said they paid her a visit upon their return. However, it was too late. She complained that the officer at the desk should have told her the unit was in Town.

The complainant was lodging a complaint against the Police for not coming to her “rescue” on “Monday and Tuesday.” She said she wanted the Officers to “come” whenever she “calls”. She also requested that the Ombudsman investigated the matter in such a way that the Police would not know she complained.

The Outcome: The complaint against the Police is non-jurisdictional. Therefore, the matter should have been referred to the Police Commissioner. However, it was deemed “trivial”, under Section 10 (1) (b) of the Ombudsman Act. The Police did visit the complainant upon their return to the station at the end of Carnival. The Ombudsman was satisfied they had done everything in their power to create a Noise Free Zone around the home of the complainant.

A Breath of Fresh Air

The complainant's case was non-jurisdictional. It was against a private auto repair shop, which was a stone's throw from his residence. The matter was referred to the appropriate authorities – the Development Control Authority (DCA) and the Central Board of Health (CBH). However, the complainant kept coming back. He reported that no action had been taken. The complainant explained that the problem had gone on for years. The Office of the Ombudsman, he said, was his last resort.

A site visit was made to the auto shop. The plight of the complainant was obvious. The dust from the sanding of the cars hung in the air. Disembowelled vehicles, discarded parts, used light fixtures and other refuse were strewn everywhere. The complainant said rats over-ran the neighborhood. Fortunately, the auto repairer was not spray – painting on the day of the visit.

A report, complete with photographs, was prepared and submitted to the appropriate authorities.

The Office subsequently received a copy of an enforcement order from DCA against the auto repairer. However, the complainant was back, early one morning, claiming that at that very moment the auto repairer was in the process of spraying another car. The complainant claimed nothing had changed. The matter was again referred to the appropriate authorities by the Office of the Ombudsman. DCA issued a Stop Notice. However, the auto repairer seemed well connected and used his connection to thwart the efforts of DCA. The Office was determined to protect the rights of the complainant. According to the Ombudsman Act Section 12 (4) the matter was referred to the Office of the Prime Minister.

The Outcome: The auto repair shop was closed by the DCA. His business should be relocated. The complainant thanked the Office for the intervention. For the first time in years he can take “a breath of fresh air.”

A Little Too Late

The complainant was from another country. She claimed she was recruited by a former Minister responsible for the Ministry of Economic Development, Trade, Industry and Commerce, in the 1990's, to work with "young people who for any number of reasons were excluded from school." Her job title was "Human Resource Officer". She claimed that at the time, she was attached to the Ministry of Economic Development, Trade, Industry and Commerce, then to the Ministry of Labour, and Social Welfare. Six (6) years later, she returned to her country and resumed her life there.

Upon the attainment of age sixty (60), the complainant said she received a "pension" from the Social Security Board. However, there was no "pension" from the government of Antigua and Barbuda. The complainant said she returned to the Island, intermittently, to investigate the matter. She said she discovered that not only was the Ministry of Economic Development no longer in existence but also that the persons who were in charge of the programme for which she had been recruited, were either too ill or had passed. She requested the Office of the Ombudsman intervene on her behalf.

The complainant produced a single document, which had no relevance to the case. The Ministry of Economic Development, Trade, Industry and Commerce was now defunct. The Office attempted to locate her personal file but to no avail. In fact, many of her peers had long retired from the Civil Service. However, someone recalled that at that time, there were two persons with that name employed by the Ministry of Economic Development, Trade, Industry and Commerce. The person had no relevant information pertaining to the case.

The Outcome: The Office, in accordance with Section 10 (1) (b) (2), refused to investigate the matter any further. It was a little too late.

Not Guilty

The Office of the Ombudsman received a complaint from an inmate at Her Majesty's Prison. She claimed she was falsely arrested and remanded for a crime she did not commit. She claimed there was no evidence linking her to the crime for which she had been accused; that it was "cruelty" to continue to hold her in prison. She related her side of the story. She questioned her prolonged detention and asked whether that was justice or injustice. She wanted the Office of the Ombudsman to intervene on her behalf.

The Outcome: The Office did not investigate the matter. It was a serious criminal offence which was already before the Court. By the following week, the case was tried in the High Court. The complainant was found guilty on a lesser charge and is awaiting sentencing.

Children Have Rights, too. - A Case in Full

Background

In 2004, a vulnerable group within the society put its case of discrimination to the Government. The issue was the absence of an Interpreter on KSD TV. They claimed it put a section of their group at risk especially during the hurricane season. They claimed it was unfair. Apparently, their argument was convincing for an Interpreter was employed on staff. However, six (6) months later, at the end of the probationary period, the Interpreter was dismissed. It would appear that the equipment needed had not yet arrived. KSD TV argued that since the employee was not functioning in the post for which she had been employed, she should be terminated. However, she was re-instated by a decision of the Cabinet. Later, she sought the intervention of the Office of the Ombudsman to settle the matter of her arrears.

But in 2015, the Interpreter was terminated. This time, the Ministry of Information declared it *“was no longer desirous of continuing with reporting news in sign Language to the **listening and viewing audience** in Antigua and Barbuda”* (my bold). There was public outcry. Cabinet, therefore, rescinded its decision and issued another decision to re-instate the Interpreter. However, to date, the Ministry has not implemented the Cabinet Decision. In September, 2016 the complainant requested the intervention of the Office of the Ombudsman.

The Investigation

When the Office investigated the matter, it discovered that despite the decision of the Cabinet of Antigua/Barbuda to re-instate the Interpreter, the Ministry had its own requirement for re-instatement. The complainant was told in a correspondence: *“Please note that as a requirement for your re-instatement and presenting the news to the Hearing Impaired in sign language is that you undergo an assessment to verify the effectiveness of your Sign Language presentation.”* A consultant was brought from another Caribbean island, July 7th, 2015 to carry out the assessment. The Office discovered the consultant was an expert in signing the “language” native to that Caribbean island. Conversely, the Interpreter signed Sign Exact English (SEE).

Having carried out the assessment, the consultant made a written report to the Ministry of Information. It was subsequently communicated to the complainant. The communication stated: *“It is clear you can communicate in Pidgin Signed English ... Further given that the target audience are users of Antigua and Barbuda Sign Language (ABSL), you need to acquire ABSL. Finally, that you should not be allowed to return to your duties as Staff Interpreter until you receive further training and demonstrate proficiency in ABSL.”* The Ministry added: *“In light of the above, arrangements will be made for you ...to acquire ABSL to ensure that the news presented in Sign Language can reach its target audience and is consistent with the news package and the standard that has been set”.*

ABSL? What is that?

There was just one small problem. The investigation revealed there was no Antigua and Barbuda Sign Language (ABSL). In other words, the Interpreter was being asked to become proficient in a sign language that did not exist. On a site visit to the School for children with disability, the teacher made it quite clear that not only did ABSL not exist but also that the students were taught SEE. ABSL had no users; no “target audience”. It did not exist. The question is, did the Ministry of Information know that ABSL did not exist when it offered to make “arrangements” for the Interpreter to acquire proficiency in same? The complainant said she was never contacted about any training in ABSL.

SEE and Universal Education in Antigua/Barbuda

The School for children with disability seemed to have always taught SEE. It would have been discriminatory to do otherwise. It is even more important given the government’s introduction of universal education. What this means, is that secondary education has been made accessible to **all** students. Children with disability are eligible for entry into Secondary Schools. At the time of the investigation, there were two (2) students at the Secondary level – a third former and a fifth former. The fifth former has since written the CXC Exams, gaining passes in several subjects. Therefore, students with disability are not placed at a disadvantage. They can pursue the CXC Exams as well as be competitive in the work place.

Read the Bottom Line

The Ministry of Information, however, has convinced itself that the crawl, at the bottom of the screen, was both appropriate and adequate for persons with disability, even though it is too fast; not clear; lacked detail; and words were “too big” for children with disability. Apparently, one of the functions of the Interpreter was to choose simpler words the children can understand. Sometimes the crawl is absent. Simply

put, it is not the answer to or the replacement for the Interpreter. It is also discriminatory, placing the children at a disadvantage. They do Current Affairs like their hearing peers. They have the same rights as the others.

Findings

1. The Ministry of Information violated the rights of persons with disability by refusing to re-instate the Interpreter.
2. The Ministry of Information defied, and continues to defy, a Cabinet Decision to re-instate the Interpreter. In consultation, the Attorney General was quick to point out that Cabinet Decisions are the policies of the government. Therefore, they should be implemented. That Cabinet Decision was since 2015.
3. Ignorance of the non-existence of Antigua and Barbuda Sign Language (ABSL) is no excuse. The School for children with disability could have enlightened the Ministry on this matter, and the fact that SEE is taught in the School. There is no “target audience” for ABSL. It does not exist.
4. The crawl, as the source of Current Affairs for students with disability, is discriminatory.

Recommendations:

1. The Interpreter be re-instated in accordance with the Cabinet Decision. It is only fair to persons with disability.
2. The position of Interpreter should be made permanent.
3. The role of the Interpreter should be extended to include all government educational programmes as well as important speeches, addresses, and cultural events etc. Apart from disseminating information, it would help to hone the signing techniques of the children, parents and members of the society.
4. The Ministry of Information, through its Government of Information Service (GIS), should offer basic sign language programmes for children and other

interested individuals. The Ministry of Information could work alongside the Ministry of Education to tailor such programmes. The children need all the help they can get if they are to contribute meaningfully to the society. (See Appendix 3).

5. The Ministry of Information should prepare a job description for the Interpreter to include some of the recommendations of the Consultant:

- i) Certification for the “Interpreter”.
- ii) Persons within the Antigua and Barbuda hearing impaired community providing bi-annual feedback on the interpreting services.
- iii) The Interpreter should be provided with the news one hour before the news broadcast to read and practice.
- iv) The Interpreter be given opportunity to review her signing for self-improvement.
- v) Critique of the work of the Interpreter by peers to ensure that best practices are maintained.

Progress Report

Under Section 12 (3) (g) of the *Ombudsman Act, 1994* the Special report was submitted to the Ministry of Information. However, each and every recommendation was rejected. The explanation from the Ministry was that the “format in which the news is being presented to the Viewing Audience ... has changed; hence there is no longer a need for a(n)... Interpreter.” The children with disability are still at a disadvantage; still being unfairly treated. Consequently, under Section 12 (4) of the

Act, the report has been submitted to the Prime Minister. We await his decision. *To be continued.*



ITV, London, England, June 2017

Citizens' Complaints 2016 – 2017

From September 1st, 2016 – August 31st, 2017 the Office of the Ombudsman handled sixty-seven (67) complaints. Of that number, twelve (12) complaints had been lodged either during the two (2) year hiatus or with the previous Ombudsman. The absence of an Ombudsman from October 2014 – August 2016, no doubt, affected the number of complaints. Therefore, no comparative figures are given. Of the sixty-seven (67) complaints, forty-three (43) were resolved. The complaints were against ten (10) ministries and three (3) statutory bodies. They covered a range of issues including pensions, promotion, taxation, medical reasons, road maintenance, destruction of crops, encroachment, awarding of contracts and land purchase.

There were other complaints made to the Office. However, they were deemed non-jurisdictional, and were referred to the appropriate complaints handling agencies – the Courts, Labour Department, Development Control Authority (DCA), Central Board of Health (CBH), the Police, Legal Aid, and Consumer Affairs.

Don' weigh me 'tory by you' own 'cale an' weight

Antiguan Proverb.

Thirty-two (32) referrals were recorded. “Recorded” is the operative word. Prior to 2016, apparently, referrals were not recorded. During the early days of my tenure, that policy continued. What these referrals show are:

- the nature of the problems that are non-jurisdictional;
- that some members of the public are unaware as to which agency they should complain, and
- that complaint handling agencies need to do greater outreach programmes.

During the year, a number of persons sought the advice of the Ombudsman on a range of issues. However, some persons seemed fearful of taking their complaint a step further by making an official complaint. There were persons who simply needed a listening ear. They had become so frustrated by the “system” that they needed a person who would allow them to vent their pent-up feelings of hopelessness, anger, frustration and sometimes hatred for the position in which they have found themselves. Listening is key; empathy the lock. They are important in controlling the stresses and emotions that confront the Ombudsman on a regular basis.

***Han’ mek rope, rope tie han’
Antiguan Proverb***

STATISTICS

| | |
|---|-----------|
| Number of Cases by Ministries | 63 |
| Ministry of Agriculture | 14 |
| Ministry of Education | 10 |
| Ministry of Finance & the Economy | 3 |
| Ministry of Health | 8 |
| Ministry of Information | 3 |
| Ministry of Social Transformation & Human Resources | 2 |
| Ministry of Sports, Culture & National Festivals | 1 |
| Ministry of Tourism & Civil Aviation | 8 |
| Ministry of Works | 8 |
| Prime Minister's Office | 6 |
| Number of Cases by Statutory Bodies | 4 |
| Antigua/Barbuda Development Bank | 1 |
| Antigua/Barbuda Social Security Board | 2 |
| Central Housing and Planning Authority (CHAPA) | 1 |
| Total | 67 |

| Complaints by Ministry Divisions | Number of Cases |
|--|------------------------|
| Ministry of Agriculture | 14 |
| Headquarters | 9 |
| Development Control Authority (DCA) | 2 |
| Central Marketing Corporation (CMC) | 2 |
| Survey Division | 1 |
| Ministry of Education | 10 |
| Headquarters | 6 |
| Schools' Meal | 1 |
| Antigua/Barbuda Hotel Training Institute (ABHTI) | 1 |
| Schools | 2 |
| Ministry of Finance & the Economy | 3 |
| Customs Division | 1 |
| Inland Revenue | 1 |
| Treasury Department | 1 |
| Ministry of Health | 8 |
| Headquarters | 3 |
| Fiennes Institute | 2 |
| Emergency Services (EMS) | 1 |
| Mount St. John's Medical Center (MSJMC) | 2 |
| Ministry of Information | 3 |
| Antigua & Barbuda Broadcasting Services (ABS TV) | 3 |

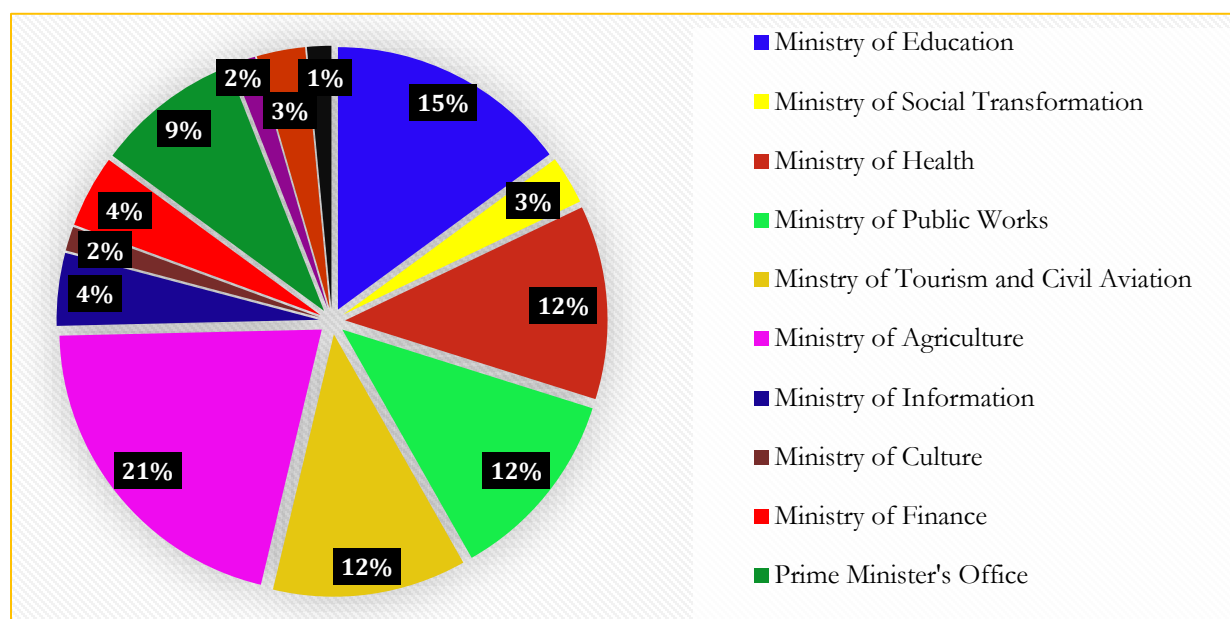
| | |
|--|-----------|
| Ministry of Social Transformation & Human Resources | 2 |
| Establishment Division | 1 |
| Social Welfare | 1 |
| Ministry of Sports, Culture & National Festivals | 1 |
| Ministry of Tourism & Civil Aviation | 8 |
| Headquarters | 2 |
| Air Traffic Control | 3 |
| St. John's Development Corporation | 1 |
| Antigua & Barbuda Airport Authority (ABAA) | 1 |
| National Parks Authority | 1 |
| Ministry of Works | 8 |
| Roads | 4 |
| Headquarters | 4 |
| Prime Minister's Office | 6 |
| Prison | 3 |
| Police | 1 |
| Antigua Public Utilities Authority (APUA) | 2 |
| Statutory bodies | 4 |
| Antigua & Barbuda Development Bank | 1 |
| Social Security Board | 2 |
| Central Housing & Planning Authority | 1 |
| Total | 67 |

| Complaint Topics 2016 - 17 | 67 |
|--|-----------|
| Pension/Gratuity | 14 |
| Promotion | 7 |
| Salary & Allowances/Honorarium | 7 |
| Land disputes | 7 |
| Unfair removal from post Re/ Assignment | 4 |
| Unfair dismissal | 3 |
| Roads/Drains Maintenance | 3 |
| Title Deed | 3 |
| Injury on the Job | 2 |
| Medical Malpractice | 2 |
| Sale of Books | 1 |
| Expulsion from School | 1 |
| Damage of Private Property by Government Vehicle | 1 |
| Road encroachment | 1 |
| Debt settlement | 1 |
| Payment of Arrears | 1 |
| Auto repair shop | 1 |
| Encroachment (private) | 1 |
| Crop destruction | 1 |
| Awarding small contracts | 1 |
| Human Rights | 1 |
| Excessive taxes | 1 |
| Rental payments | 1 |
| Long detention in Police custody | 1 |
| Reinstatement | 1 |

| Cases Referred | | 32 |
|--|---|----|
| | | 4 |
| Attorney General: | 2 | |
| Law unconstitutional | 1 | |
| Private matter | 1 | |
| The Courts: | | 7 |
| Private Contractor | 1 | |
| Unfair trial | 1 | |
| Defamation of character | 1 | |
| Child Support | 1 | |
| Expunging of criminal record | 1 | |
| Private matter - Family estate | 2 | |
| Church / Moravian | | 1 |
| Fencing | 1 | |
| Police | | 4 |
| Private - noise | 1 | |
| Private - matter | 2 | |
| Traffic accident | 1 | |
| Cabinet | | 1 |
| Private matter - Medical | 1 | |
| Department of Labour | | 7 |
| Injured on the job | 1 | |
| Unfair dismissal | 2 | |
| Nonpayment of wages | 2 | |
| Nonpayment of Honorarium | 1 | |
| Columbian Emerald/Pension | 1 | |
| Public Service Commission | | 1 |
| Payment of arrears | 1 | |
| Solicitor | | 2 |
| Immigration issue | 1 | |
| Police matter | 1 | |
| Antigua Port Authority | | 1 |
| Retirement - Early | 1 | |
| Commercial Banks | | 1 |
| Accounts: Loan | 1 | |
| Financial Services Regulatory Commission | | 1 |
| Banking matter | 1 | |
| Prime Minister's Office | | 1 |
| Student/China | 1 | |
| Development Control Authority / Central Board of Health | | 2 |
| Auto repair shops | 2 | |
| Legal Aid | | 1 |
| Legality of forced treatment (patient) | 1 | |

| Outcome of Complaints (2016 - 2017) | |
|-------------------------------------|----|
| Number of Cases resolved | 43 |
| Ongoing | 24 |

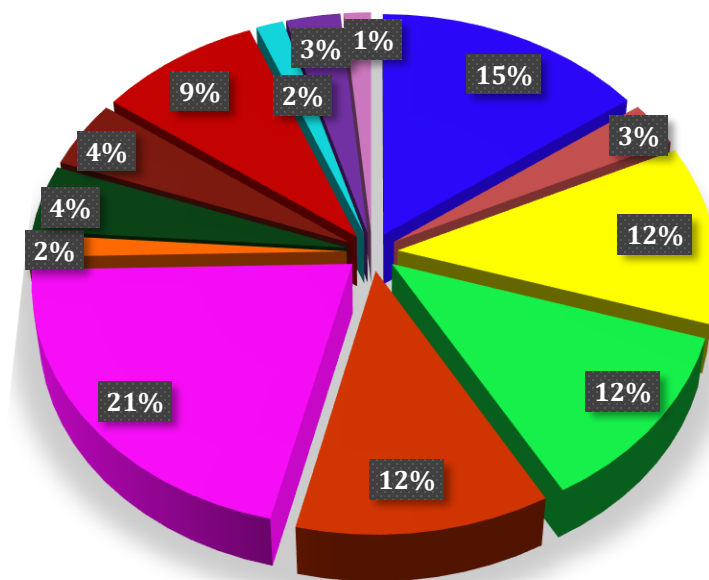
| Ministry | Total Number of Cases | Resolved | Ongoing |
|--|-----------------------|-----------|-----------|
| Ministry of Agriculture | 14 | 9 | 5 |
| Ministry of Culture | 1 | 0 | 1 |
| Ministry of Education | 10 | 6 | 4 |
| Ministry of Finance | 3 | 3 | 0 |
| Ministry of Health | 8 | 6 | 2 |
| Ministry of Information | 3 | 0 | 3 |
| Ministry of Public Works | 8 | 4 | 4 |
| Ministry of Social Transformation | 2 | 2 | 0 |
| Ministry of Tourism and Civil Aviation | 8 | 5 | 3 |
| Prime Minister's Office | 6 | 4 | 2 |
| Statutory Bodies: | | | |
| Antigua Development Bank | 1 | 1 | 0 |
| Central Housing & Planning Authority (CHAPA) | 1 | 1 | 0 |
| Social Security Board | 2 | 2 | 0 |
| Total | 67 | 43 | 24 |



| Complaints by Ministries/ Statutory Bodies | Number of Cases |
|--|-----------------|
| Ministry of Agriculture | 14 |
| Ministry of Education | 10 |
| Ministry of Finance & the Economy | 3 |
| Ministry of Health | 8 |
| Ministry of Information | 3 |
| Ministry of Social Transformation | 2 |
| Ministry of Sports | 1 |
| Ministry of Tourism & Civil Aviation | 8 |
| Ministry of Works | 8 |
| Prime Minister's Office | 6 |
| Statutory Bodies: | |
| Antigua & Barbuda Development Bank | 1 |
| Antigua & Barbuda Social Security Board | 2 |
| Central Housing & Planning Authority (CHAPA) | 1 |

Number of Complaints by Ministries and Statutory Boards

- Ministry of Education
- Ministry of Social Transformation
- Ministry of Health
- Ministry of Works
- Ministry of Tourism & Civil Aviation
- Ministry of Agriculture
- Ministry of Sports
- Ministry of Information
- Ministry of Finance & the Economy
- Prime Minister's Office
- Statutory Bodies:
- Antigua & Barbuda Development Bank
- Antigua & Barbuda Social Security Board
- Central Housing & Planning Authority (CHAPA)



APPENDICES

Appendix (1)

Page 8

Thursday, December 07, 2017

THE DAILY Observer

First deaf secondary school student graduates

By Tameika Malone
tameika.malone@antiguaobserver.com

Jalenda Richards became the country's first deaf student to graduate from secondary school in Antigua and Barbuda.

Now, the Christian Hill young woman, who walked down the aisle at her Clare Hall Secondary School graduation on Tuesday, already has her sights set on attending college in Canada.

Richards became totally deaf in 1999 by meningitis.

Her mother, Jaslyne Richards, said her daughter never allowed the disability to limit her ambitions.

Beaming with pride, Jaslyne was still over-

whelmed with emotion when OBSERVER media spoke with her yesterday.

"I had mixed feelings knowing what she went through to get to a secondary school, it was not easy. In 2010, she had the opportunity to write Common Entrance and she passed in the top 100, but she never got the opportunity to start secondary school from first form, it was a challenge because she is hearing impaired," the mother said.

Jalenda was enrolled in the School for the Deaf in 2001.

Even after successfully sitting what is now the Grade Six Assessment, Jalenda faced a new hurdle

in entering secondary school – she had no interpreter.

Jaslyne said with the help of Diane Archibald, principal of the School for the Deaf along with family and friends, her daughter was taught the secondary school curriculum used by children without disabilities, as the student waited for the right opportunity to sit in a secondary school classroom.

"If you know the child I am talking about, then you would know she has a brain on her. She kept saying she wanted to go secondary school ... and study in Canada. She has had that dream since she was seven years old," the mother said.

Jalenda enrolled in CHSS in January 2015, and after just two years and four months in secondary school, she was successful at several of the eight subjects she sat at the Caribbean

Examination Council level.

The young woman aspires to become a police officer, however, because there are no provisions yet for Jalenda's disability, her mom said that her daughter has placed that on the back burner for now, and plans to pursue studies in fashion designing and becoming a pastry chef.

Jalenda was fitted with a hearing aid, which allows her to hear sounds, but her mother said the graduate is not able to understand sounds. The mother said the implants that can give her daughter clarity in hearing is currently outside the family's means.

She said that neither she nor her husband, Lenroy Richards, will be limiting Jalenda and they will be supporting their daughter's dream.

The young graduate sang her school's graduation song through sign language.

The ceremony coincided with the ongoing "I Am Able" conference being held in Antigua that seeks to improve the lives of persons living with disabilities.



Appendix (2)

Clarevue Psychiatric Hospital



Maximum Security



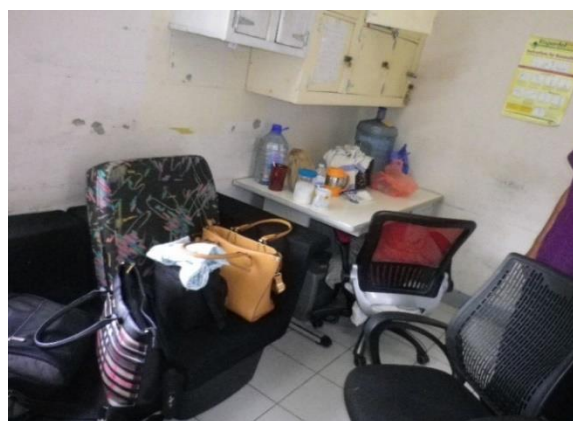
Waiting Area



Dormitory



Nurses' Quarters



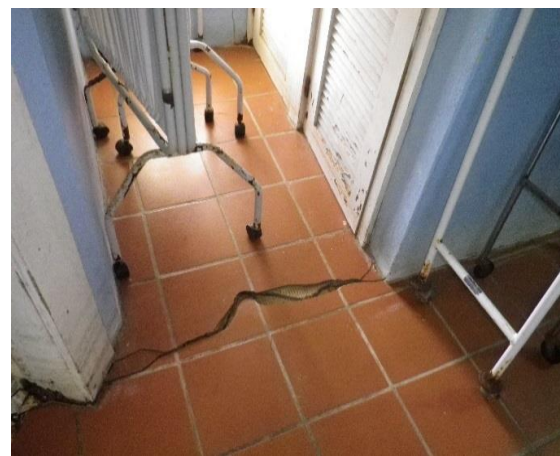
Fiennes Institute



Bathroom Facilities



Dormitory



Cracks in Wall and Floor

Appendix (3)

Wednesday August 23, 2017

Page 7

THE DAILY Observer

Sign language, teachers a scarcity

The special needs unit within the Ministry of Education said that they are experiencing challenges in finding qualified sign language teachers.

Joy-Ann Harrigan, education officer for the unit, said that the goal of the ministry is to expand and cater to the needs of more children who have hearing and speech impediments.

"It is difficult to get teachers to work with children who are deaf," she said while speaking on the OBSERVER AM Radio Programme yesterday.

The education officer

said that despite the challenges the unit is currently facing, they have been successful with the limited teaching resources.

"We have our first student who was attending the Clare Hall Secondary who took three CXC subjects and successfully negotiated them while going through the school using sign language," said Harrigan.

The ministry is currently hosting a two-week workshop to sharpen the skills of teachers dealing with children with special needs.

"We need to increase the



Joy-Ann Harrigan, education officer for the special needs unit within the Ministry of Education

NOTICE

IN THE HIGH COURT OF
JUSTICE
ANTIGUA AND BARBUDA
(IN ADMINISTRATION)
A.D. 2017

In the estate of LUCILLE
HYACINTH WILLIAMS née
CONWAY also known as
"HYACINTH CONWAY" and
further also known as
"SUSAN CONWAY",
deceased

NOTICE IS HEREBY GIVEN
that at the expiration of
fourteen (14) days from the
date of this Notice, applica-
tion will be made by JOYCE
CONWAY of 89 Moray Road,
Islington, London, England
to the High Court of Justice
for the Grant of Letters of

NOTICE

Form RLNC 6
ANTIGUA AND BARBUDA
THE REGISTERED LAND ACT, CAP
374

Section 34
of the
Act

REGISTRATION SECTION
Falmouth & Bethesda
BLOCK 34 2684 E PARCEL 85

NOTICE OF APPLICATION TO
REPLACE LOST OR DESTROYED
LAND CERTIFICATE

TAKE NOTICE that an application was
filed in the Land Registry on 8th day of
January, 2016 by CRAIG E. M.
CHRISTOPHER of CHRISTOPHER,
GONSALVES & CO. of Suit No. 17,
Woods Center, Friars Hill Road in the
Parish of Saint John in Antigua and
Barbuda on behalf of DAVID LAURIS-
TON SOWERBY as the lawful
Attorney for the use and benefit of
DAVID LAKE the son of the
deceased and Administrator of the
estate of ALBERT EDWARD LAKE
a.k.a. ALBERT LAKE (deceased) the
Applicant herein for the replacement of
Land Certificate # 569/79 dated the
30th day of May, 1979 issued to
ALBERT EDWARD LAKE a.k.a.
ALBERT LAKE

ability and capacity of
teachers to deal with chil-
dren who are coming with
challenges," said Harrigan.
"And because we have uni-
versal secondary education,
and the students will go on
to secondary school, the
teachers in the primary
schools will need that skill
to communicate."

The education officer
further added that there
needs to be an increase in
the number of sign lan-
guage teachers, but the min-
istry will not be able to
employ the requisite num-
ber of special needs teachers
needed for each school. As a

result, she said the work-
shop will focus on develop-
ing the skills of the interest-
ed teachers who are already
in the system.

"Those who are show-
ing the interest now in
learning sign language will
widen the number of per-
sons available to work with
children, so it will become
easier," said Harrigan.

The education officer
said sign language is not
only for students and teach-
ers, but also for the general
public so that we can com-
municate more effectively
with those who are chal-
lenged in that area.

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Heng yuh catacoo basket weh yuh can re'ch um.
Antiguan proverb



Compliment Hyacinth Hillhouse, Elvie's Pottery, Sea View Farm -

Coal Pot & Pot from Sea View Farm – Oh Gad!

The background of the entire page is a close-up, slightly wrinkled image of the flag of Antigua and Barbuda. The flag features a black upper triangle, a blue middle triangle, and a white lower triangle, all separated by red borders. A yellow sun with multiple pointed rays is centered in the black triangle.

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ST. JOHN'S, ANTIGUA, W.I.

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EMAIL: officeombudsman@ab.gov.ag