

What You Should Know About the Ombudsman?



Office of the Ombudsman

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Here you will find the answers to some frequently asked questions concerning the Ombudsman such as:-

- **Who is the Ombudsman?**
- **Can the Ombudsman help me?**
- **What powers does the Ombudsman have?**

Who is the Ombudsman?

The Ombudsman (pronounced OM'BOODZ-MAN) is an officer appointed by the Parliament who acts independently to receive and investigate complaints from any aggrieved member of the general public against any public service, public servant or statutory body. The Ombudsman is governed by the Ombudsman Act No. 5 of 1994 and Section 66 of the Antigua and Barbuda Constitution.

Dr. Marion Blair, Ph. D was appointed Ombudsman on 1 September 2016, following the retirement of Dame Eusalyne Lewis who held the post from 2006 to 2014.

What does the Ombudsman do?

The Office of the Ombudsman mediates, advises and investigates complaints concerning government bodies. The Ombudsman will first assess the initial complaint to decipher the complaint and offer any advice to rectify the situation in a speedy manner. If the issue still prevails, a designated officer on staff under the guidance of the Ombudsman will conduct an impartial investigation to decide if any injustice has taken place. The findings of the investigation will be arranged in a report with feasible recommendations to alleviate the issue at hand.

Where is the Office of the Ombudsman located?

We are now located at Prime Minister's Drive that is—outside the North Gate of the Prime Minister's Office. To get to the office you need only to arrive outside the East Gate of the Sagcor Building on Factory Road then walk upwards to the Prime Minister's Office. The National Flag and the office sign are located at the entrance of the Office of the Ombudsman.

What happens if the Head of Department refuses to cooperate with the investigation?

The Ombudsman may at any time enter upon any premises occupied by any government department or division or statutory body and inspect the premises and conduct interviews or examine any document specifically relevant to the complaint. However before entering any premises the Ombudsman shall notify the head of the government department or division or statutory body occupying the premises of her purpose.

Are there any penalties or fines for the failure to comply to the Ombudsman?

A person is liable on summary conviction to a fine of one thousand dollars (EC\$1,000.00) or imprisonment of six (6) months who -

- (a) without lawful justification or excuse, willfully obstructs hinders or resists the Ombudsman or any other person in the exercise of his powers under the Ombudsman Act;
- (b) without lawful justification or excuse refuses or willfully fails to comply with any lawful requirement of the Ombudsman or any other person under the Act;
- (c) willfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his powers under the Act; or
- (d) in a manner inconsistent with his duty under section 20 (2) (a) of the Ombudsman Act, deals with any documents, information or things mentioned in that paragraph.

What are some of the matters that the Ombudsman cannot investigate?

The Ombudsman cannot intervene in matters concerning:-

- The exercise of the powers conferred on the Governor-General by the Constitution;
- Any action taken by the public officer responsible for the extradition of any person;
- Any action taken with respect to the orders or directions to Antigua and Barbuda Defense Force or members thereof, or any proceedings under the Defense Act;
- Any decision or action of the Public Service Commission relating to appointment, removal and disciplinary control of any person;
- Any decision or action of the Public Service Board of Appeal;
- Any decision or recommendation made or action taken by the Director of Public Prosecutions;
- Any decision or action of the Police Service Commission relating to the appointment, removal and disciplinary control of any person; or
- Any decision by the Supervisor of Elections in the exercise of his functions under the Constitution or any Act.

Can the Ombudsman be challenged?

Decisions made by the Ombudsman cannot be challenged reviewed, rejected or called into question in any court except on non-jurisdictional grounds.

Who can make a complaint to the Ombudsman?

The Ombudsman may initiate an investigation on a complaint made to him by any aggrieved person in writing. The Ombudsman can also take complaints from:-

- (a) A representative of the deceased, a minor or any person who is unable to act for himself;
- (b) Any member of Parliament on behalf of any aggrieved person;
- (c) Detainees or convicts; or
- (d) A group of persons may make a complaint.

How can I lodge a complaint?

The complainant must first exhaust all possible avenues of recourse in an effort to resolve the issue before presenting the complaint to the Ombudsman. If such has already been done, the complainant may call the office at 462-9364 and make a verbal complaint to the Complaints Officer or visit the Office of the Ombudsman to lodge their complaint in writing.

At the initial visit to the office, the complainant is guided by a Complaints Officer who will assist the complainant in filling out the complaint form.

The complaint is then forwarded to the Investigations Officer or the Ombudsman for further intervention or mediation. Please note that investigations will not proceed unless the relevant documents are presented to the Ombudsman.

Your cooperation is needed in handling your complaint effectively.

Do I have to give my name? Will I be publicly identified?

Your name and other relevant information will be taken to address your complaint only; therefore, it should be duly noted that your personal information will not be made public. All complaints are kept in strict confidence unless the complainant wishes otherwise.

What happens after I have lodged a complaint with the Ombudsman?

In some cases, the complaint is settled informally. If not, an impartial investigation is conducted thoroughly to decide if an injustice has taken place. This investigation is conducted in private. The Ombudsman affords the principal officer of the government entity concerned an opportunity to make orally or in writing representations relevant to the matter in question. No report or recommendation is made without the cooperation of the principal officer involved.

After such an investigation is completed, the Ombudsman made decide whether the official action or decision was fair. If the complaint was found to be justified, the Ombudsman may make recommendations for corrective action to the various levels of government for example the Head of the Department, Minister, Prime Minister and finally to the Parliament. The Ombudsman may also make his recommendations public.

If the complaint is found to be unjustified then the Ombudsman will dismiss the case.

Can the Ombudsman refuse to investigate a complaint and if so what are the conditions?

Yes, the Ombudsman can refuse to investigate a complaint if:-

- (a) the subject-matter of the complaint is trivial;
- (b) the complaint is frivolous or vexatious or is not made in good faith; or
- (c) the complainant has not a sufficient personal interest in the subject-matter of the complaint.

On the other hand, the Ombudsman can sometimes help even if the complaint is not strictly within her jurisdiction by providing information as to who can assist.

Will the Ombudsman inform me of the outcome of my complaint?

Yes, the Ombudsman will inform the complainant of the result of the investigation in writing.

Does it cost anything to make a complaint to the Ombudsman?

No. The service is free and handled in a strict and confidential atmosphere.

Can the Ombudsman revise a court order?

No, the Ombudsman cannot intervene on court orders. Court orders are viewed as the final resolution in the state of Antigua and Barbuda.