



PUBLIC SERVICES OMBUDSMAN

ANNUAL REPORT 2022

Presented to the Gibraltar Parliament

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1.0 INTRODUCTION TO THE 2022 ANNUAL REPORT

This is my third presentation to the Gibraltar Parliament as Public Services Ombudsman since my appointment back in May 2021 and thankfully, the following will show a more normal outlook of events, departing from the global pandemic that severely tested our community. We weathered a horrid unpredictable storm and came together as one irrespective of background- all moving together, arm-in-arm. For many, this included enormous sacrifice and loss though equally, it emphasised many values taught by our decedents like focusing on the vulnerable, working and supporting each other without wanting in return. We demonstrated a community spirit that in my opinion differs from the norm generally witnessed today predominantly driven by individualism. Let's not forget the lessons learnt and what is most important in life which is the caring and respecting of others before considering oneself. This simple message should be reflected in the work of public officials who attend to members of the general public. As hard as it may seem at times, citizens should not be viewed as a mere number. People have feelings, emotions, and only seek help and advice when absolutely necessary. The Ombudsman, therefore, investigates where there is deemed to be maladministration or indeed, any consequential injustice caused thereafter. So, let me highlight what is coming in this report.

I start by giving a summary of what are my principal observations followed by highlighting the extent of training and development undertaken by my staff during the year, which incidentally has been limited due to the impact of the Covid 19 virus. This continues to affect resources globally as we try to pick up from before the time this struck. This is subsequently followed by mentioning a couple of outstanding issues worth publically reminding from last year's report which regrettably has not resulted in any feedback- particularly reference comments on the Venice Principles and Own Motion proposals. Later, I show the main breakdown of complaints received and general areas of concern are highlighted and discussed further. This shows that the Housing Authority once again tops the league table of attracting the most

complaints by citizens though I stress that when compared to the previous year in 2021, there is a negligible downward trend. Whilst the biggest improvement appears to come from the Gibraltar Health Authority which similarly, shows a downward trend in complaints, but more importantly, has demonstrated a massive 20% improvement when compared to the previous year in 2021. Later, a somewhat different approach to last year's Annual Report is introduced where I have included a summary of individual investigations, so that readers may be excused from having to read all the reports in full. That said, for those more enthusiastic readers wishing to seek greater details, please note that all individual investigations are shown in full in Appendix B.

Later, I include a study considering the hypothesis suggesting that in many [Departments] there are insufficient public officials at points of engagement with citizens and it is because of this that correspondingly, in 2021 and 2022 we had 29% and 33% relating generally to delays in communications, non replies and in-action. To understand this further, it is important in my view to give a brief snapshot on how the UK public sector has evolved, clarifying its role and purpose, and later focusing on what is commonly referred to as spans of control, their significance and the fact that this has inevitably shaped our very own civil service in Gibraltar. Indeed, this is reinforced by the evidence obtained from the 'Approved Government of Gibraltar Estimates of Revenue & Expenditure 2022/2023' tabulated in Appendix A. This confirms that larger Departments dealing directly with citizens have spans of control that are far too narrow at the front end. It is, therefore, argued that these should be wider with more administrators rather than managers, planners and organisers. In order to illustrate this further, the distribution of staff within Income Tax, Civil Status & Registration Office, Education, Housing, Employment, and Digital Services, etc, is highlighted showing their span of control boundaries falling far short of what is suggested as best practice. It is argued that more administrators should be considered and positioned at the front end of services. In other words, there should be less managerial layers and more *doers* at the bottom. Therefore, flatter structures with fewer layers and slimmed-down bureaucracies- which together allow flexibility and rapid communication- are the order of the day. The Annual Report later ends with some general discussion and recommendations which show

that there is currently an opportunity to make improvements at the front end of public services by increasing administrators. For example, the wide introduction of Digitalization and access to online facilities is a huge step forward and an opportune moment towards rationalising spans of control mentioned earlier, which in my opinion can reduce historical complaints linked to delays, non replies and Departmental inaction though this will not be without its fair share of drawbacks, and this is to do with the impersonal nature of Digital technology.

I, therefore, have the honour and pleasure of presenting this 2022 Annual Report, my third, and invite you to read its contents.

A handwritten signature in black ink, appearing to read 'William Coram', with a long horizontal stroke extending to the right.

Dr William Ronald Coram
Public Services Ombudsman

2.0 SUMMARY OF PRINCIPAL OBSERVATIONS

1. Though somewhat limited when compared to other years, there has been staff training and development involving attendance in London on two occasions. This has generally included conferences, seminars and workshop sessions covering and including the potential impact of Artificial Intelligence (AI) on complaint handling.
2. There has been no feedback on comments related to the Venice Principles and limited progress on introducing into legislation, the Own Motion proposals debated in the Gibraltar Parliament back in December 2019. In addition, where recommendations have been made in the past, these are simply parked to one side. Respectfully, much like a fictional character in a non-fictional play, the Ombudsman has no sharp teeth to enforce the implementation of recommendations.
3. Up to 372 Complaints have been received, 60 were related to private entities including issues regarding private housing rent and repairs, legal issues and financial matters. The remaining 312 complaints were related to Government Departments, agencies and other public entities.
4. Over the last 5 years the overall trend in complaints has been declining though understandably, as a result of the Covid 19 pandemic, this rose quite sharply in 2021 as historical grievances held back in 2020 were being pushed forward into 2021. Similarly, it appears that this may have continued into 2022 with a slight negligible increase in complaints when compared overall to 2021. That said, the statistics tell us that even taking the above contributing factors into account, the trend is, nevertheless, concerning when compared to the pandemic year of 2020.

5. To summarise, the Housing Department has similarly to previous years attracted the highest number of complaints and indeed, they lead the table again, 34% of all complaints received. In addition, though the Gibraltar Health Authority (GHA) has continued to generate a large proportion of the complaints at 12%, it has, nevertheless, demonstrated the greatest overall improvement of 20% when compared to last year mainly because of the Patients Advocacy Liaison Service (PALS) having properly been complemented with staff later in the year.
6. Similarly to 2021, it appears that this year up to 33% of complaints overall are directly related to communication delays, non-replies and inaction by Departments. The previous year's Annual Report highlighted this as being 29% so the trend continues to be moving upwards. It is because of this that a comprehensive study has been undertaken to understand why this continues to be the case, year-in year-out.
7. A study has been completed to confirm the hypothesis that insufficient resources are located at the front line of some public services. This has been concluded by assessing lower structural spans of control/supervision - observing the ratio between managers and direct subordinates. These show predominantly narrow ratios borrowed from past traditional management approaches. Times have now changed and though this was perhaps suitable in the past, they are no longer suitable today. Our civil service, therefore, needs to be recalibrated in order to implement Government policies in the 21st century.
8. The study is not an exact picture of current front-line resources though it is indicative. For example, there are contributing factors that should be taken into account and these are: (a) Establishment figures fluctuate in real time with corresponding staff movement. (b) Political priorities have an effect like the redistribution of staff to comply with strategic plans introduced by the Civil Contingency Committee when responding to the Covid and Brexit challenges. (c) Staff from the Gibraltar Development Corporation (GDC) that are administrative are not included, because their grade,

role and discipline are not shown in the approved estimates, only staff numbers and this could have a bearing on front line services.

9. The new eServices drive is principally a means to accurately measure outputs, improve efficiency and steer a centralised campaign to simplify the delivery of public services. This appears to have been successfully implemented and is increasingly conducive in eroding the need for direct human face-to-face contact at public counters.
10. Online digital interaction may to some extent fast track public services, but, nevertheless, is viewed by many as a rather impersonal platform and furthering an arms-length approach between the citizen and public official. However, the introduction of online digital technology is commensurate to considering suggested adjustments at the front line of public services. That is, introducing more administrators (doers), and slimming managerial layering. It is argued that this would reduce complaints linked to delays in communication, non-replies and inaction by Government departments.
11. Leading on to the final note, assessing the number and types of complaints received portrays an effective overall picture on how a public service is performing. With this in mind, and according to the evidence available, public services generally are doing what they are supposed to do though obviously this can be done better. Indeed, no system is perfect, but looking forward in terms of strategic planning, it is hoped that lessons can be learnt from this Annual Report.

3.0 TRAINING & DEVELOPMENT

The consequences of the Covid 19 pandemic remained prominent subsequently in 2022 whereby there did appear to be limited training opportunities and conferences worldwide. Fortunately, this did pick up later in the year whereby in May 2022 the Deputy Ombudsman, Nicholas Caetano attended a one day morning conference at Church House, Westminster London representing the Gibraltar Office at the invitation of the Parliamentary and Health Services Ombudsman (PHSO) (England). Beneficiaries enjoyed a series of core lectures and group discussions focussing principally on access to justice and improving public services. In addition, Ombudsman corporate strategies were highlighted and thoroughly discussed for the forthcoming period 2022-2025.

A smaller working group of UK core Ombudsman met in the same afternoon at the Offices of the PHSO, Millbank Tower London for the biannual Public Services Ombudsman Group meeting, where similarly Nicholas attended on behalf of the Ombudsman. He remarked “.....attendance at these types of events at an Ombudsman’s level are vital in nurturing the very important individual relationships we hold with our UK counterparts. They are invaluable not only as learning tools, but also from a networking experience and international support structure perspective.”

Later the next month, Nicholas and our Executive Investigating Officer, Sarah De Jesus El Haitali attended a 3 day Ombudsman Association Conference entitled 'Delivering in a new world'. This was held at the Royal Holloway, University of London on 20-22 June 2022. The annual conference included the attendance of around 150 delegates from Ombudsman offices around the world and involved seminars and valuable workshop sessions including what is perceived to be the impact of Artificial Intelligence (AI) on complaint systems.



Figure 1: Our Deputy Ombudsman Nicholas P. Caetano, pictured with Joshua Rozenberg KC (hon), Britain’s most experienced full time legal commentator- at the PSOG meeting, London May 2022.



Figure 2: Sarah De Jesus El Haitali, our Executive Investigating Officer pictured in the grounds of the Royal Holloway, University of London back in June 2022 whilst attending an international conference.

It is hoped that recent pandemic restrictions will have eased later next year and that more training opportunities will be offered that recently has been sadly lacking at international level.

Before highlighting what complaints have been generally received at the Office of the Ombudsman, let us briefly mention a couple of issues worthy of reminding the reader from last year’s Annual Report and these are as follows.

4.0 HM GOVERNMENT OF GIBRALTAR FEEDBACK

Despite drafting the 2021 Annual Report, there has been no feedback on the main issues raised with the exception of an official meeting dated 14th February 2023 held between the Ombudsman and the Director General (DG) of the Gibraltar Health Authority (GHA). This was arranged to discuss some general points referring to the aforementioned. In addition, it was understood that consequently the issues raised would be discussed at GHA Board level so that lessons could be learnt. However, there has been no official comeback. The same is said for recommendations made in the 2019 Annual Report by the former Ombudsman, Mr Dilip Dayaram Tirathdas, MBE though it is recalled that these were at one time raised by Parliamentary Opposition Members.

Respectfully, very much like a fictional character in a non-fictional play, the Ombudsman has no sharp teeth to enforce the implementation of recommendations. For example, it is argued that where these fail to be implemented without proper consultation, legislation should be put in place so that the Ombudsman can penalise and fine the department concerned. Of course, there will inevitably be some situations where in the public interest, recommendations could trigger wider implications unknown to the Ombudsman. However, under these situations there should be clarification as to why they have been omitted. Let us now look at the following two specific points whereby similarly as in the past, we await with bated breath on any new developments.

4.1 Venice Principles

Last year's Annual Report highlighted what are the Venice Principles and whether all these have been reflected into our own relevant legislation. Regrettably, no feedback has been received on whether this will be examined further and/or implemented locally though that said, it must be stressed that many of the Venice Principles have already been adopted. In addition, though these have been endorsed by the General Assembly of the United Nations, they are, nevertheless, guidelines and, therefore, not something set in stone as each jurisdiction will focus on their own preferences and what is most practically relevant to them.

4.2 Own Motion Resolution

Similarly, there has been no feedback as to when the Ombudsman's Act will be amended to reflect and incorporate the Ombudsman's legislative powers to undertake formal investigations on his own initiative. This is regrettable bearing in mind that it was already debated in the Gibraltar Parliament and a Resolution passed back in December 2019- over 3 years ago. It is hoped that the amendments will be introduced shortly without any further delay.

Leading on to the main crux of the report, let us now consider, assess and discuss the overall complaints received at the Office of the Ombudsman, breaking these down and analysing any patterns and trends that come to light.

5.0 BREAKDOWN OF COMPLAINTS

The following generally gives a breakdown of complaints received in 2022 together with comments and illustrations for ease of reference. We begin with the Performance Review.

5.1 Performance Review 2022

A total of 372 complaints were received by the Office of the Public Services Ombudsman during 2022. Of these, a total of 371 complaints were finalised during the year, as shown below in Figure 3.

Performance Review	
Complaints not yet finalized – brought forward from 2021	38
Complaints received during 2022	372
Complaints finalized during the year 2022	371
Complaints not yet finalized – carried forward to 2023	39

Figure 3: Summary of Performance Review for 2022

This shows that of the 372 complaints received, 60 related to private entities including issues regarding private housing rent and repairs, legal issues and financial matters. The remaining 312 complaints were related to Government Departments, agencies and other public entities.

It then follows that over the last 5 years the overall trend in complaints was declining though understandably, as a result of the Covid 19 pandemic, this rose sharply in 2021 as historical grievances held back in 2020 were being pushed forward into 2021- please see Figure 4. Similarly, it appears that this may have continued into 2022 with a slight negligible increase in complaints when compared to 2021. That said, the statistics tell us that even taking the above contributing factors into account, the trend is, nevertheless, concerning when compared to the pandemic year of 2020.

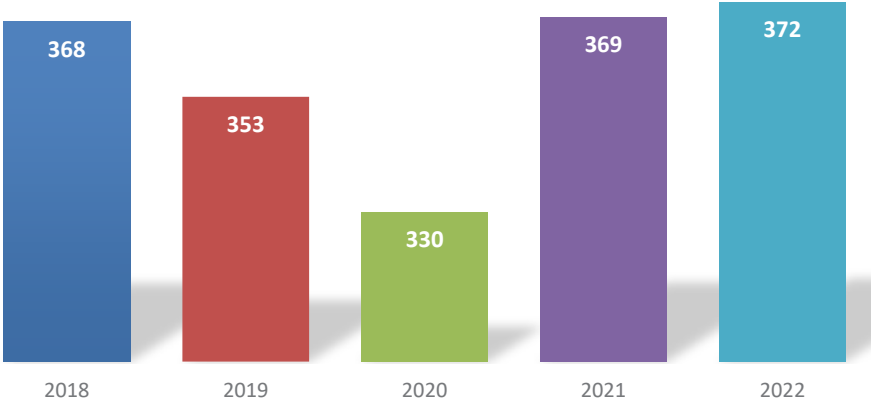
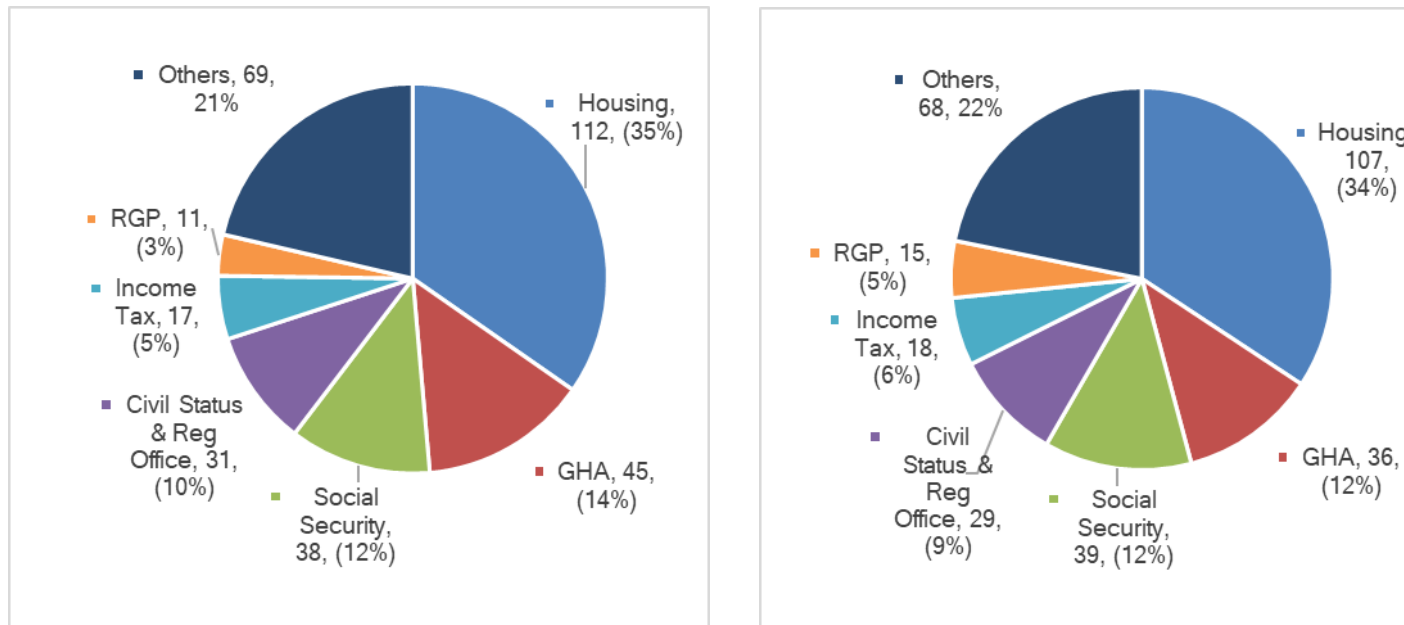


Figure 4: Complaints received by the Office of the Public Services Ombudsman in the last 5 years

Let’s illustrate this further, from 2020 to 2021, overall complaints increased by 11.8% whilst similarly from 2020 to 2022, this rose by 12.7% - representing an average of 12.25% independently over the two consecutive years. Surely, public services will have reached some level of normalisation by 2022, but this does not appear to be the case when observing the data above. Or otherwise, have overall complaints simply risen, because of other factors irrespective of any pandemic impact. Well, with the exception of any financial implications, it is strongly suspected that a more realistic view is likely to occur in the year 2023 when any pandemic impact should by then have settled completely.

5.2 General Synopsis

Similarly to our past Annual Reports, both sets of data for the last two consecutive years of complaints received at the Office of the Ombudsman is provided so that comparisons can be made and seen at short glance. These are generally illustrated in Figure 5, please see below. In addition, we have inserted all relevant statistical trends in one chart for ease of reference and this is illustrated in Figure 6.



**Analysis of the 323 Complaints in 2021*

Analysis of the 312 Complaints in 2022

Figure 5: Representation of Complaints in 2021 & 2022








DEPARTMENT	TREND	DIFFERENCE (%)	REMARKS
Housing		Down from 112 to 107 (4.46%)	Complaints have gone down moderately by 4.46%. This is good news.
Others		Down from 69 to 68 (1.45%)	Though negligible in context, nonetheless, complaints have gone down very slightly by 1.45% and this is good news.
Social Security		Up from 38 to 39 (2.63%)	Complaints have gone up very slightly by 2.63% and, therefore, the difference is deemed negligible when compared to the previous year.
Gibraltar Health Authority		Down from 45 to 36 (20%)	Complaints have gone down considerably by 20%. Likely because of GHA recruiting a full complement of staff for the Patients Advocacy Liaison Service (PALS) as recommended by the Ombudsman at the time and, therefore, complaints would have been settled informally and beforehand within the organisation, instead of having to approach the Ombudsman. This is good news.
Civil Status & Registration Office		Down from 31 to 29 (6.45%)	Complaints have gone down moderately by 6.45% which is good news.
Income Tax		Up from 17 to 18 (5.88%)	Complaints have gone up very slightly by 5.88% and, therefore, the difference is deemed negligible when compared to the previous year.
Royal Gibraltar Police		Up from 11 to 15 (36.36%)	Complaints have gone up considerably by 36.36%. Reasons need to be explored as to why this has risen so dramatically.

Figure 6: Snapshot of complaint trends between years 2021 and 2022

To summarise, the Housing Department has similarly to previous years inevitably attracted the highest number of complaints and indeed, they lead the table again with 107 complaints, that is 34% of all complaints received. This is because of the fact that shelter is an inherent human behavioural priority. It continues to be the most important motivational factor throughout our lives and is why Housing is and will always be the most sensitive of all our public services. The prospect or fear of not having proper shelter and protection will trigger the most prevalent of primeval instincts. So, whilst other public services may be of equal significance, housing will always dominate our statistical reference. That said, Figure 6 shows that they have followed a downward trend of 4.46% when compared to 2021 which is excellent news, but much work still needs to be accommodated to shift their position from first place in the league table of Departments attracting most complaints.

In Figure 5, the segment under the 2022 analysis categorised under 'Others' comprises 68 complaints in total. For clarification, this represents the following Departments broken down with their respective number of corresponding complaints- please see Figure 7. It is important to show readers that these Departments are not immune from incurring complaints though their numbers are much smaller in comparison to say Housing, etc. It is for this reason that they have been added together and categorised separately for ease of reference in the Pie Charts.

Next, Social Services (DSS) has attracted 39 complaints, that is 12% overall. This figure is quite high and it is suspected that much of this coincided with the period when clearly major health and safety concerns were being expressed by staff about their workplace at 14 Governors Parade that eventually led to their relocation to new premises at Harbours Walk. When compared to 2021, the trend of complaints went slightly upwards by 2.63% which is not good news but is, nevertheless, fairly negligible.

Department	No. of Complaints (each)
Care Agency	9
Education & Training; and Employment Services	8
Customs	5
Transport & Licensing	4
E-Gov; Environmental Agency; Land Property Services; and Magistrate's Court	3
Car Parks Ltd; Gibraltar Electricity Authority; Human Resources; Office of Chief Minister; and Office of Fair Trading	2
Animal Welfare; AquaGib; Attorney General's Office; Borders & Coastguards; Calpe House; GBC; Gibtel; Housing Works Agency; Sports Authority; Technical Services; Town Planning; and Treasury	1

Figure 7: Departments with less complaints categorised separately under 'Others'.

The subsequent Department with highest complaints is the Gibraltar Health Authority (GHA) attracting 36, that is 12% overall when compared to others. However, they have clearly shown the biggest improvement so far with a 20% downward trend when compared to the previous year- please see Figure 6. They should be applauded for what is best overall improvement when compared to all other public Departments.

This leads us to the Civil Status Registration Office (CSRO) that continues to generate complaints which in 2022 totalled 29, that is 9% overall. Despite this, however, the trend has been going downwards by 6.45% when compared to 2021. So, this is good news.

Next lies the Income Tax Office attracting 18 complaints in 2022, representing 6% overall. Compared to 2021, this is showing an upward trend of 5.88% and though negligible, does need to be stamped out.

The Royal Gibraltar Police (RGP) attracted 15 complaints in 2022 representing 5% overall. Again there appears to be an upwards trend in complaints when comparing 2022 to 2021, with an increase of 36.36%. This is a fairly big increase when considering the respective number of complaints in the previous year.

Let us now consider the general nature of overall complaints reported at the Office of the Ombudsman.

5.3 Overall Nature of Complaints

Figure 8 below shows what are generally the main types of complaints received at the Office of the Ombudsman. Similarly to other years, communication problems lie at the heart comprising delays (at 15%), non-replies (14%) and inaction (4%). This amounts to around 33% which incidentally has risen from the previous year in 2021 formerly at 29% of overall complaints. Again, it is felt that greater attention be focused and considered at the front line of public services to reduce what is effectively a repetitive cyclical communications problem, occurring year-after-year: An issue initially raised by Mr Henry Pinna, our first Public Service Ombudsman back in the early 2000s. So, later in this Annual Report it is felt appropriate to include a comprehensive study of our front line public services to raise awareness and substantiate whether sufficient resources are in place at points of engagement directly between service users and public officials.

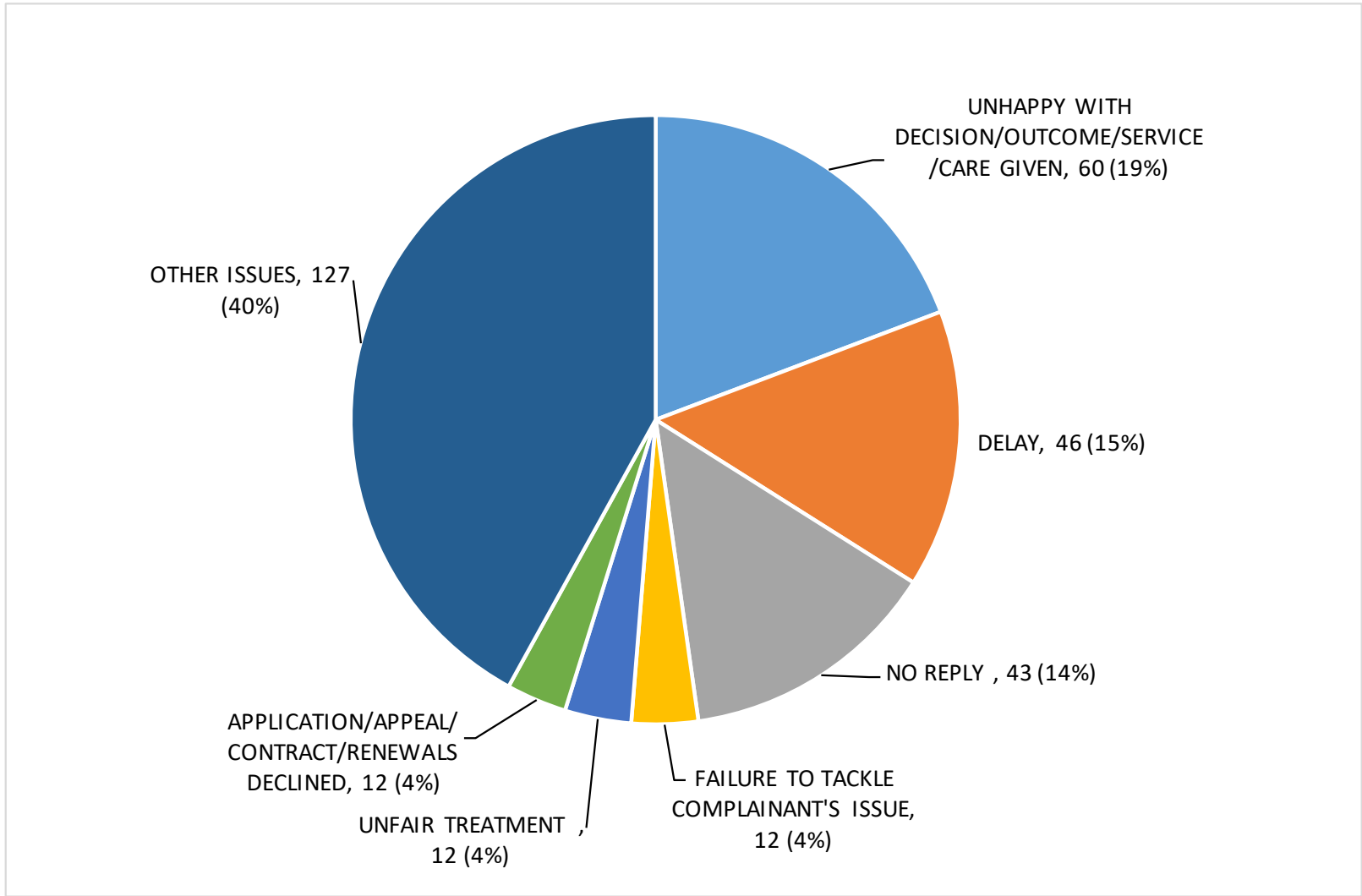


Figure 8: Overall Nature of Government Complaints Received Totalling 312

Let us, therefore, now summarise what is the overall picture in 2022 and give a breakdown of the following 371 complaints that were finalised- please see Figure 9:

- There are 65 complaints classified as being ‘Outside the Ombudsman’s Jurisdiction’;
- Up to 165 complaints were closed as it was considered that the Complainant(s) had not exhausted all their avenues of redress with the Public Service Provider concerned. These refer to complaints lodged at the Ombudsman’s Office without the Complainant having formally submitted their complaint to the relevant Public Service Provider, in the first instance. Before a complaint is made to the Ombudsman, the Complainant is required to try and resolve any issues directly with the relevant Department concerned under their own internal complaints procedure;
- Note that up to 100 complaints were classified as dealt with by ‘Immediate Resolution’;
- Whilst 28 complaints were settled informally; and
- Finally, 13 complaints were meticulously investigated by the Ombudsman and concluded by the end of the year. 9 of these complaints were upheld or partly upheld, whilst 4 of them were not upheld. Detailed reports have been written for 7 investigations and these are given in Appendix B. For ease of reference, this is illustrated in Figure 9.

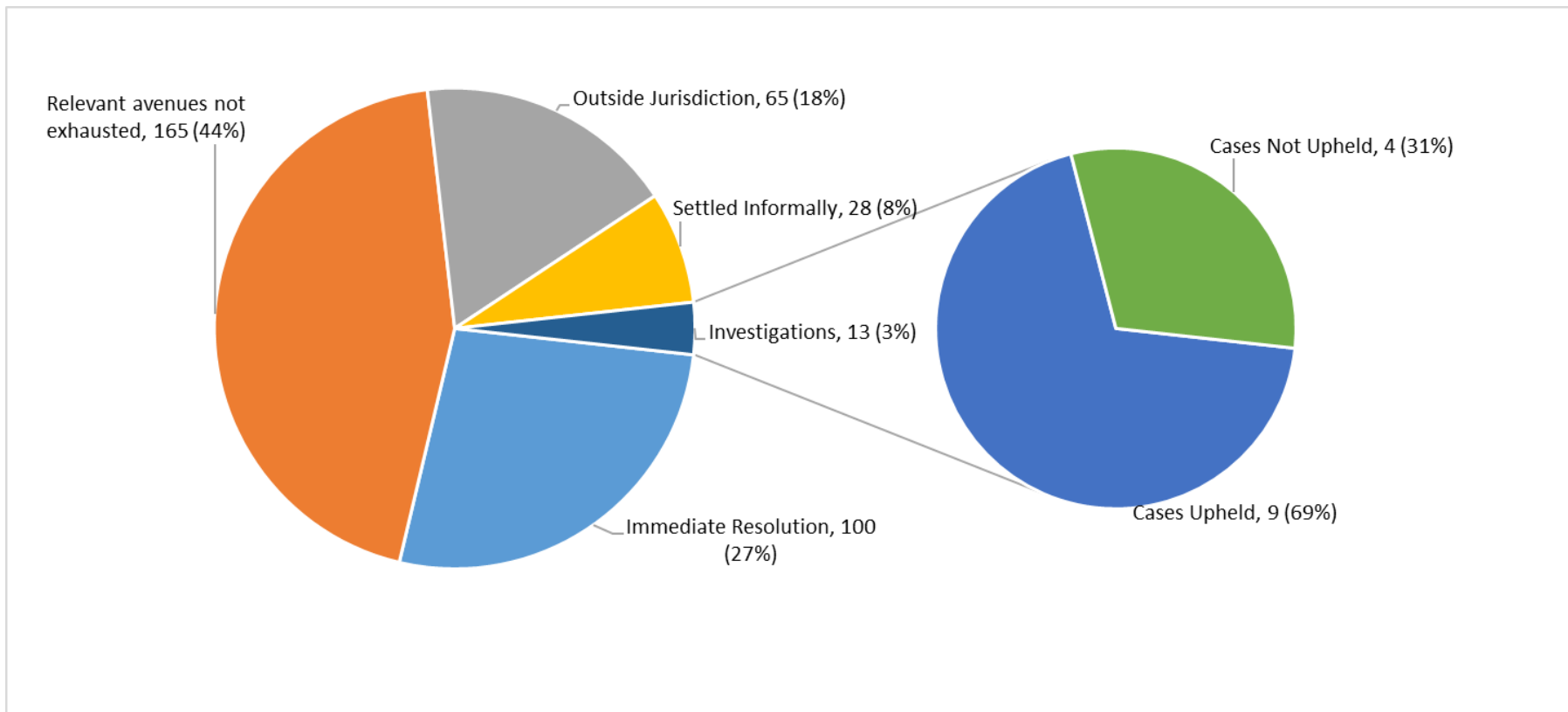


Figure 9: Classification of Complaints in 2022

6.0 SUMMARY OF INDIVIDUAL INVESTIGATIONS

CASE NO 1241

Complaint against the Housing Department

The Complainant complained that the Housing Department erred in the application of their own policy in disallowing him to become a joint tenant of his parents' Government rented flat where he had resided since 2007

As a result of his personal circumstances he was assessed by the Housing Allocation Committee and allowed to purchase on a Government co-ownership property scheme. He also joined the tenant waiting list at position 52. He was however disallowed from becoming a joint tenant of the flat where he resided with his elderly mother (reasons provided)

Ombudsman found that despite the apparent unfairness, law and policy had been properly applied.

Nonetheless, a recommendation was made allowing for greater powers of discretion in exceptional circumstances and genuine cases such as the Complainants pursuant to

strict checks and satisfaction of stringent criteria as made by the Complainant and future applicants.

CASE NO 1247

Complaint against the Department of Education ("DoE")

Due to global lockdowns imposed in March 2020 resulting from the Covid pandemic, many Gibraltarian students studying in UK universities returned to Gibraltar. The DoE, therefore, embarked on an exercise to recoup unused funds from the last grant instalment paid to students on or around the 18th March 2020. To establish the amount to be reimbursed, the DoE asked students to submit evidence of expenses paid out during that term from that instalment for the period April to July 2020.

In the Complainant's case, the DoE did not accept the offset of the June/July 2020 rental against the one month's rent deposit the Complainant had paid to his landlord, as being an expense pertaining to the period in question. The Ombudsman disagreed with the decision for two reasons; the rental fell within the DoE's

established period of expenses and as highlighted by the Complainant, had he paid the rental and then had the deposit refunded, as was the case with his peers, no issue would have arisen. The Ombudsman sustained this complaint. The DoE's decision was unfair and the Ombudsman recommended that the last rental of £550-, a legitimate expense, be taken into account for the purpose of the DoE's exercise.

Regarding the non-reply by the Director to the Complainant's email of the 17th February 2021, the Ombudsman sustained the complaint. It is noted that although the last communication from the DoE, an email on the 2nd February 2021, provided detailed information and stated that they considered the matter resolved and concluded, the Complainant opted to raise the issue with the Director. It was only as a result of the Ombudsman's investigation that a reply was finally provided to the Complainant.

CASE NO 1257

Complaint against the Royal Gibraltar Police ("RGP")

In September 2021 the Complainant's Partner was refused entry into Gibraltar by Borders & Coastguards

("BCA") via the land border with Spain due to a notice which had flagged up in their system. The Complainant sought to resolve the issue by having the Notice removed from the system and as per BCA advice, contacted the RGP.

The Complainant's attempts to obtain information from the RGP proved futile until he lodged his complaint with the Ombudsman. That resulted in the RGP responding to the Complainant's emails sent in November and December 2021 and informing him to refer the matter to the Civil Status and Registration Office ("CSRO") and the Chief Secretary.

The Ombudsman's investigation into this matter involved CSRO, the Courts, BCA and the RGP. The investigation established that further to the RGP not having replied to the Complainant's emails, when they did provide a response, they gave him erroneous information. It was only as a result of the Ombudsman's investigation that the RGP in their detailed account of the 27th July 2022 finally provided the correct information required by the Complainant with regards to how the Notice could be rescinded which was by appealing to the Governor under

Section 52 (2) and (3) of the Immigration, Asylum & Refugee Act.

Notwithstanding the fact that his Partner would have to seek legal advice in order to make an appeal (as advised by the Head of CSRO in May 2022 after having discussed the matter with the Courts) the RGP, the entity that issued the Notice, should have furnished the Complainant with the pertinent information he requested in November 2021 which only materialised due to the Ombudsman's investigation.

The Ombudsman sustained this complaint.

CASE NO 1259

Complaint against the Gibraltar Health Authority ("GHA")

The Complainant was aggrieved because a medical issue due to be resolved in July 2021 was not concluded until the 10th December 2021 due to the lack of medical equipment at the GHA. He was further aggrieved because he had not received replies from the GHA Complaints Office ("CO") further to having lodged a complaint.

The Ombudsman sustained the complaint as the investigation established that a lack of medical equipment had led to the delay in the medical issue being resolved.

The Ombudsman also sustained the complaint of non-reply from the CO. The investigation found that the departure of the Clinical Governance team and the lack of structure in the interim, coupled with the Patients Advisory Liaison Service/CO's two out of three staff members not being replaced until May 2022, having left in May 2019, had led to the inordinate delays in complaints being investigated and concluded.

CASE NO 1261

Complaint against the Civil Status and Registration Office ("CSRO")

Complainant was a Gibraltar resident with property and business interests- he was aggrieved by lack of replies and inordinate delay of nine years in CSRO processing his Exemption application - Ombudsman considered the matter wholly unacceptable - expressed the view that the delays emanated at a higher level and not from CSRO - Recommendation that Exemption process be expedited

and reasons given for deferrals when made in the interests of fairness and administrative justice.

CASE NO 1262

Complaint against the Civil Status and Registration Office (“CSRO”) and the Gibraltar Health Authority (“GHA”)

Complainant was aggrieved because he had not received replies to emails he had sent to CSRO on the 8th and 28th March 2022. He was further aggrieved because he was unable to obtain healthcare from the GHA due to the delay in obtaining a Civilian Registration Card (“CRC”).

The Ombudsman sustained the complaint of non-reply.

The Ombudsman did not sustain the complaint of delay in the Complainant obtaining healthcare from the GHA due to the delay in obtaining a CRC. Despite having applied for a CRC and a permit of residence (“Permit”) in early November 2021, the Complainant was only in a position to properly apply for a CRC and Permit on the 8th March 2022, the date on which he emailed the Head of CSRO (“Head”), after having moved in to the long-term rental. The CRC and Permit were issued on the 21st April 2022. The Ombudsman identified that the normal processing

time for a CRC is between 20 and 22 days and in the Complainant’s case there was an eight day delay which is not inordinate considering the circumstances of the case.

The Complainant’s urgency in obtaining a CRC and Permit was for the purpose of being able to register with the GHA for medical care and prescriptions. The Head of CSRO stated that the GHA, in an effort to assist the Complainant, especially considering that his medical rights from the UK had been transferred, could have undertaken the residency check and provided him with GHA cover.

CASE NO 1269

Complaint against the Royal Gibraltar Police (“RGP”)

Complainant aggrieved and frustrated by the delay by the RGP and Police Complaints Board (“PCB”) in investigating and reporting findings over his complaint of arrest and detention- a result of an alleged abuse of power. Ombudsman enjoyed jurisdiction to opine over the issue of administrative delay only. Complaint of delay against the PCB not sustained on the basis that it was investigated and reported upon within a reasonable time from the date of referral from the RGP.

7.0 A STUDY OF FRONT-LINE RESOURCES

This leads us on to the following. It should be noted that earlier in section 5.3, it is mentioned that further analysis should be considered to look at the points of engagement between citizens and public officials. For example, the Ombudsman's 2021 Annual Report showed that 29% of overall complaints received related to communication delays, non-replies and inaction by Government Departments. Similarly, in 2022 this repetitive pattern has contributed to around 33% which again represents an undesirable trend that appears to be increasing. It, therefore, follows that in the public interest, it would be useful in the first instance to consider whether there are sufficient resources in place at points of engagement directly between service users and public officials by considering spans of control between Executive (the Manager) and Administrative levels (the doers). This is explored and examined in the next section which is a study of our front line resources.

7.1 Introduction

Visiting a public counter is like opening a door into the Civil Service. The citizen will see what public officials wear, hear how they communicate, note their mannerisms. All this is often locked into the aforementioned mind-set and an impression is cemented into a collective conscious signature of the public official. Indeed, should their view be detrimental then so will the overall image. What citizens see and hear are of the utmost importance into securing an impression. Like opening a door into someone's home? What the visitor sees at first glance leaves a lasting impression of the occupants.

The Civil Service in Gibraltar has evolved from the traditional management model and dare we say, changed little over the years from the 1969 Constitution. However, what was good in those days does not necessarily mean that it's appropriate in today's modern and challenging times.

Often the following old saying springs to mind, '... why fix it if it's not broken...' This is certainly true to a degree as the Civil Service does what it's supposed to do. Its function is directed by the Government Administration of the day. For

example, when a citizen wishes to apply for a Passport, they visit the CSRO and follow a process to obtain a Passport. Similarly, wishing to be put on the Government Housing Waiting list requires a visit to the Housing Authority whereby official forms are completed and then the citizen waits accordingly. The system does what it's designed to do, but if the applicant waits, and waits and waits....? What happens next? There is no alternative option for the aforementioned- the application and/or query trudges along a monopolised track line.

Should the wait become lengthy or excessive, most citizens then suspect that a problem has arisen. The following later descends into a drama of find and seek with the Department concerned, and should this result in an absence of reply and/or clarification, then the problem will persist, becomes exacerbated and finally, ends up with the citizen resorting to knocking on the front door of the Ombudsman's Office looking for support and expected intervention.

So, let's take the analogy of the old fashioned bicycle and put it into the context of the Civil Service. The trouble here is that this old bicycle needs a new seat because it's worn due to ordinary wear and tear. It needs new tyres and wheels because the existing ones have lost their tread, spokes are rusting and about to fall off. That's why the bicycle is slow and hard to push and ride. It also needs a new chain and the gears require greasing. Well, the Civil Service in Gibraltar also needs to be re-tuned given the importance of its role, because it provides the means of getting things done on behalf of the Government that is democratically elected by its people. It has to move forward and seek improvements in the quality of life for its citizens, in all spheres of society and at all levels. Therefore, does the Civil Service need to be rejigged, reset, discussed? The answer is clearly yes when bearing in mind that 33% of all complaints received in 2022 relate to delays, non replies and inaction by public Departments. The fact is that our public services also need to be routinely serviced like the aforementioned bicycle, so that we can raise its performance, speed, and agility.

The above is perhaps a very simplistic analogy and in so highlighting in this way, the reader will understand the reasoning behind why this study has been undertaken and the prognosis that follows.

As mentioned earlier, the Ombudsman's 2021 Annual Report showed that up to 29% of overall complaints received related to communication delays, non-replies and in-action by Government Departments. Similarly, this has been the case

in 2022 with 33%. This study, therefore, clarifies whether there are sufficient resources in place at points of engagement directly between service users and Government Departments by analysing *spans of control* between the Executive (the manager) and its Administrative levels (the doers) and in conclusion, the evidence illustrated herein, suggests this hypothesis as being correct.

So, in order to do this, the study begins by giving an explanation of why and how public services have developed over the course of time beginning with the influence of what is known as the classical school of management. It is clear that organisations have evolved as and when new approaches were introduced and these are briefly examined further. Later, the role and purpose of the public sector is clarified and it is seen that citizens have little choice or option but to utilise the public services currently available. With this in mind, we later introduce what is known as the concept of span of control within organisational structures and consider how they may either facilitate or restrict delivery of service. This is applied as the main instrument in measuring overall effectiveness of Departmental points of interaction, between the citizen and public official. To do so, we need to study the latest Approved Government of Gibraltar Estimates of Revenue and Expenditure 2022/2023, which is publically available. Though the document is complex in itself, this, nevertheless, provides us with a good benchmark not only of the proposed forthcoming budgetary rundown, but also, under each specific Departmental Head, we are able to pluck out what are the establishment figures at administrative levels. These are then scrutinised further in much greater detail represented in a tabulated format, subsequently shown as a simple histogram with concluding results fully discussed. It later transpires that as a result of existing 'very narrow' and 'narrow' spans of controls, that the hypothesis is proposed arguing that these are not suited to Departments that enjoy day to day interaction with the general public. In fact, it is because of this, that these specific departments are prone to generating delays and problems when dealing with citizens. It is then proposed that these spans of control at the front line should be positioned structurally within the medium spectrum envisaged to facilitate and improve communications when dealing with enquiries. The reader is finally given some conclusions and recommendations which point to some interesting views and what appears to hint at some subconscious reticence by successive Administrations towards tackling structural problems generally, within public services. Instead, there is a growing momentum in heavily investing in technology

commonly labelled Digitalization; this being acknowledged as the solution to all ills. Though this platform has indeed, facilitated interaction between the citizen and public official, it remains impersonal, distant and creates its own fair share of problems that ultimately may not necessarily warrant improvement in communications, reduce delays and Departmental inaction, but we await to see whether this is indeed a correct assertion.

So, the current development known as e-Business, may not be the panacea of all good things to come, rather a step going back to a culture of measurement akin to neo-scientific management approaches, once perceived as the best approach when improving efficiency and output at the expense of the human touch. It is proposed that the real difference will be made by considering and adjusting the front end of citizen -public interaction with simple form and lean staff supply.

7.2 Background

In the Ombudsman's 2021 Annual Report, it is stated that 29% of citizens' complaints received, centred generally around delay and non-replies to communications and in-action by Government Departments (Coram: 23). Similarly, this is the case for 2022 with 33%. So, this effectively comprises a major proportion of the complaints and appears to be a recurring theme year upon year whereby these revolve around the same areas of maladministration. The following questions arise. Why are there delays in communications? Why are there non-replies? Why are there cases of Departmental in-action? Does this relate to supply and demand issues, i.e., too many enquiries being generated with insufficient resources to engage, administer and revert? Or does this relate to maladministration and/or laissez faire practice? (Coram: 51). Indeed, should the problem lie with insufficient resources at enquiry stage, then, organisational adjustments should be considered to shape it to the needs of the public. This, often termed changing hierarchical spans of control, is where more administrators are introduced at points of engagement at the expense of higher managers. In other words, could there be too many people involving themselves in managing and organising operational matters rather than actually performing engagement tasks. This is reminiscent of the old saying, '....too many Generals and not enough Soldiers'? (Coram: 52). So,

in order to assess this further, let us briefly delve a little further into the origins of the Civil Service, its function, role and purpose.

7.3 Snapshot of Traditional Civil Service: A Relevant Historical Context

The origins of the UK public sector and factors that influenced its development, were mainly attributed to the Northcote-Trevelyan Report of 1854, the work of the German Sociologist Max Weber and numerous other traditional management approaches (Hughes, 1994). The former introduced lower ranks into the public sector through open competition which was established via central examination boards. In the USA, the Pendleton Act of 1883, later reformed by Woodrow Wilson was introduced to ideas behind the separation of policy (normally the duty exercised by politicians) and administration (those appointed to carry it out).

Public sector administration was heavily influenced by the work of Max Weber (1947) through his bureaucratic model, developed in the early part of the 20th century, which proposed a framework for a competent and neutral public service which was recruited and appointed on merit. This was based on rational and legal authority. Weber argued that the best public administration system would be one which was hierarchical with clear lines of responsibility. It would be impersonal, efficient, governed by rules and regulations, with those people employed enjoying secure employment. Promotion would be based on seniority with employees enjoying life long careers with reasonable salaries and pensions at retirement. This was the starting point which would prove to be very influential for the next 100 years.

Another major influential contribution was made by Frederick Taylor (1911) through his work on job design and 'Time and Motion' studies (Burnes, 1996). Often known as the pioneer of scientific management, he proposed that organisations should operate like machines and individual jobs designed as a part of a machine. Taylor argued that if activities were standardised, then results would become more consistent, reaching a level of maximum efficiency. His whole concept proposed that management was systematic and this remained important within the public sector whose functions were well suited to the bureaucratic mode of organisation.

In contrast, Elton Mayo in the 1920s and 1930s carried out some influential work, normally referred to as the 'Hawthorne Experiments' which investigated individual reaction to illumination levels along with other parameters (Burnes, 1996). He found that there was little effect on worker productivity due to changes in illumination and that improvements were generally linked to human behaviour and motivation factors. This led to the creation of the Human Relations School (Herzberg, Maslow, McGregor) which, though it had a substantial effect on the private sector, did not impact on the public sector until the 1960s and 1970s. In addition, Mayo earlier found that productivity increased if more consideration were given to the individual, and that financial incentives were far less important.

Other influential schools include the Systems and Contingency approach which considers that organisations are affected not only internally within closed boundaries, as in the case of traditional models, but that they are also open and subject to external factors' (Kast & Rosenzweig, 1985). This approach greatly influenced the Civil Service during the 1970s.

So, all these Schools have greatly contributed to shaping public administration. However, the domination of the bureaucratic model has attracted major criticism. Robbins (1987) argued that there were a number of problems. He criticised the bureaucratic model for encouraging goal displacements and enforcing rules and procedures which lose direction in what they were supposed to achieve. Specialised sub units are prone to stick with their own individual goals rather than converge with the overall organisational roles. Rules and regulations can be interpreted as setting the minimum standards of performance rather than acting on unacceptable behaviour. This means that staff may become complacent, sticking to a minimum acceptable performance of work leading to other dysfunctions, such as isolating employees within the organisation and even creating alienation with customers and clients that it is supposed to serve. In addition, Mullins (1993) pointed out that bureaucracy encouraged secrecy thus restricting vital information from being released to the public. Allegations of waste, misconduct, inefficiency and even corruption were common. For these reasons, the operation and size of the UK public sector was to become the focus of much debate in the 1970s. This eventually culminated in radical changes in the public sector in the 1980s and 1990s with the introduction of much more focus on improving efficiency and greater financial management (Collins, 1987).

In addition, new thinking and different neo classical managerial paradigms were being introduced that were influenced by the 'Culture-Excellence' perspective. Writers like Kanter (1989), Peters & Waterman (1982), Handy (1989) all viewed socio economic issues as being instrumental in the way forward in organisational progress and though their views had its own fair share of shortcomings, it, nevertheless, did have a major influence on how organisations changed in the delivery of private and public services.

In today's modern, competitive and challenging world, Digitalization is being applied as a fundamental central tool in advancing ways in which public services is being delivered, particularly by facilitating interaction between citizens and public organisations in ways never known before (Lindgren *et al* 2019).

There is, therefore, a huge amount of research taking place within organisational management and it is vast and complex. In fact, there appears to be a reversing trend towards neo-scientific management approaches whereby efficiency, value for money and measurement of outcomes is king.

Therefore, we can see that the delivery of public services has undertaken huge strides in its fundamental development and wait for it, we now await the prospect of introducing Artificial Intelligence (AI) which will be mind boggling in the context of change foreseeable in the future.

Let us be reminded that the Civil Service in Gibraltar is predominantly based on the bureaucratic model and can be summarised as follows (Burnes, 2014:610):

“This form of organisational structure is characterised by the division of labour, a clear hierarchical authority structure, formal and unbiased selection procedures, employment decisions based on merit, career tracks for employees, detailed rules and regulations, impersonal relationships, and a distinct separation of members’ organisational and personal lives. It is one of the core elements of the Classical approach to organisations and corresponds with the mechanistic structure identified by Contingency theorists.”

Taking all the above into context, this is merely a snippet of a vast amount of research available that has been conducted on how the public sector has evolved and obviously, our very own Civil Service is no different, having also been influenced by the aforementioned. Though geographically separate, the Gibraltar Government Civil Service is originally based on the UK bureaucratic model which spread to Overseas Territories though ours is structurally different by virtue of its own Constitutional framework. It is at this point that we should now clarify what is the primary role of the public sector.

7.3.1 Role of the Public Sector

The public sector has been described as being (Hicks, 1958:1):

“...engaged in providing services (and in some cases goods) whose scope and variety are determined not by the direct wishes of the consumers, but by the decision of Government bodies, that is, in a democracy, by the representatives of the citizens.”

Essentially, the public sector serves the political administration of the day by implementing policies which, by democratic process, have been approved by the electorate. The agenda is, therefore, set by the politicians though the detail is usually left to the administrators. However, in the 1970s and especially the 1980s, the consensus in the UK broke down and the very nature of public services and how they should be provided was hotly debated (Farnham & Horton, 1996). The main focus generated by academics and politicians of the time was on reducing public spending and introducing much greater efficiency in public services. The style of management, therefore, exercised in the modern public sector changed considerably from the traditional model which Metcalf & Richards (1987) saw as ‘impoverished’. Many see the new model as a more effective and efficient, because it is based on performance remuneration and better accountability. The public sector embraced the mechanisms of the market through competition and choice, and even the UK main opposition parties accepted that there were benefits to this. Our politicians in Gibraltar are no different though at a more micro level, they may differ on how these services may be delivered.

However, let's firstly explain and clarify what is commonly referred to 'spans of control' within the field of management as this is directly relevant and necessary so that the reader is able to understand subsequent results.

7.4 Organisational Span of Control/Supervision

The span of control, and/or supervision is simply the number of subordinates that a superior may supervise effectively and is closely linked to the departmentalisation and structure of an organisation. Implicit in the span of control is the necessity of the superior coordinating activities of subordinates (Kast & Rosenzweig, 1985). Please see Figure 10 below.

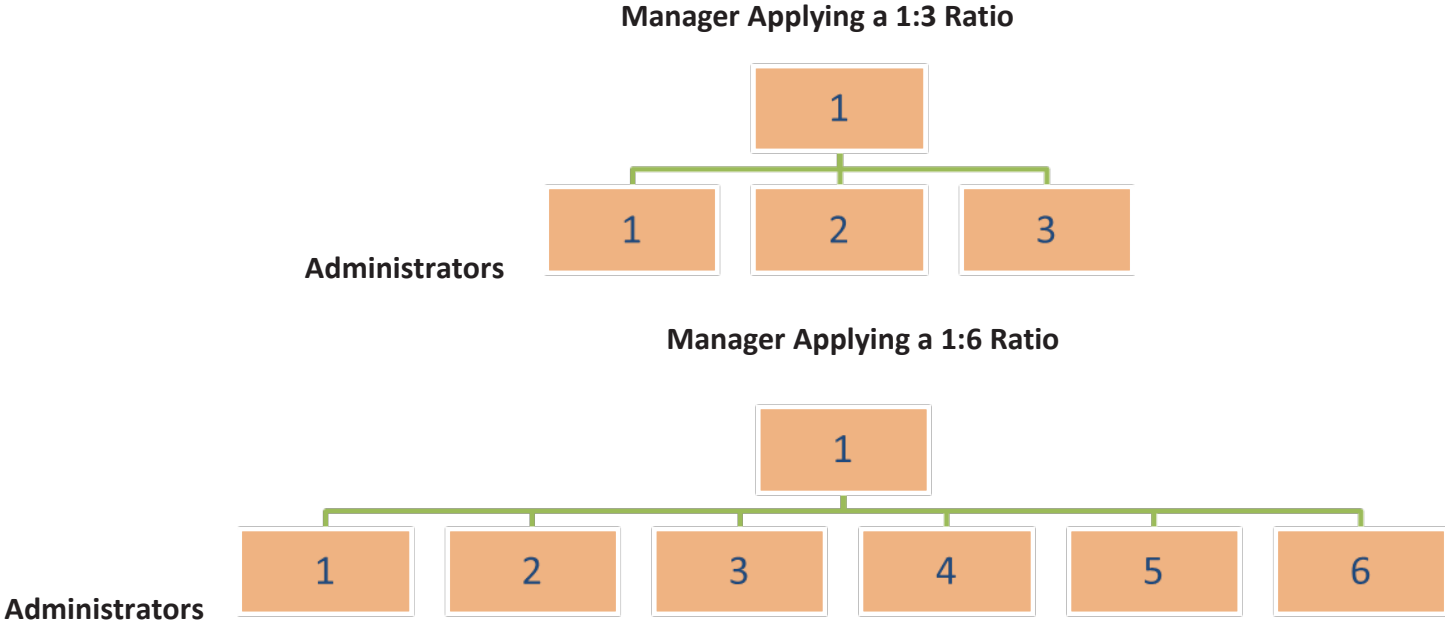


Figure 10: Examples of span of control/supervision

Therefore, this top-down relationship is critical to Departmental output. For example, traditional organisations like the public sector tend to introduce very narrow spans in order to integrate activities in a systematic and controlled manner. That said, because these tend to be vertically long in structural height, they are prone to communication delays, i.e., period of motioning actions up and down the hierarchy. Early organisational theorists recommended that low spans of control were best suited often in the range between 3 to 6 employees, and always below 15 (van Fleet & Bedeian, 1977). In addition, (Jacobsen *et al*: 5-37) argues that:

“Most classical theory about span of control implies a conflict of interest between workers and managers, which leads to the argument for narrow spans of control in order to allow supervision, monitoring, and control.”

On the other hand (Jacobsen *et al*: 3-37) states that wider spans of control diminishes the time a manager can interact, inspect, and supervise each employee and that ‘just as the hand of man can span only a limited number of notes on the piano, so the mind and will of man can span but a limited number of immediate managerial contacts’ (Gulick, 1937:87). In contrast, the private sector tends to apply flat spans which are horizontally wide at the bottom and short vertically, so that supervisors can communicate quickly with the point of customer engagement. This is also true for organic organisational structures that need to evolve and adapt quickly to change and environmental factors. Later, research by Meier & Bohte (2000) argued that (Jacobsen *et al*: 4-37):

“The logic is that reducing a given span of control is associated with costs from replacing directly productive workers with indirectly productive managers, whereas increasing a given span of control can weaken the managers’ possibilities for effective direction, supervision and coordination.”

It is clear that the main difference between the traditional mechanistic structure and quicker evolving organic structure is geared by the width at subordinate level and vertical height linked to the supervisor. For example, wide spans of control are effective and applied in the private sector as it introduces much quicker response times when dealing and interacting with business activity. It is worth mentioning that a dormant private organisation is a dead one as it would not survive life in the fast lane of private business. Similarly, however, this cannot be said in the case of traditional structures which are

inherently based on routine and consistent output. Their very purpose and role is to supply public services within a monopolised and/or corporate environment normally adopted by large centralised organisations, thus substantiated by economies of scales and outputs, delivered irrespective of any critical element and to most citizens, arguably using a sanitised and arms- length approach. There is, however, an alternative option to consider, so let us now look at this further.

7.5 Simple Form Lean Staff Supply

Though organisations like the Civil Service are complex, it is best to keep things simple and small. For example, the following by Burnes is worth serious consideration when considering that up to nearly 30% of all complaints received at the Office of the Ombudsman relate to delays, non-replies and in-action by public sector Departments (Burnes, 2014:88-89):

“Structurally, the most common form is the ‘product division’. This form, which is rarely changed, provides the essential touchstone that everybody understands and from which the complexities of day-to-day life can be approached. Since the use of teams, groups and task forces for specific projects is common stock-in-trade of these companies, most changes in structure are made at the edges, such as by allocating one or two people to an ad hoc team. By adopting this approach, the basic structure is left in place, while all other things revolve and change around it. This gives these organisations great flexibility but still enables them to keep their structures simple, divisionalised and autonomous. Such simple structures require only a small, lean staff at the corporate and middle management levels. This results in fewer administrators and more doers. So, flatter structures with fewer layers and slimmed-down bureaucracies- which together allow flexibility and rapid communication- are the order of the day. “

Does this mean that though traditional models were good in the past, they are no longer sustainable in today's more flexible and dynamic environment whereby administrators (the doers) are better educated, demonstrate greater skill, accept more responsibility, can multi-task thus contributing and improving overall efficiency? Indeed, this question raises complex issues. However, the Civil Service in Gibraltar is much smaller in comparison to other large jurisdictions like the UK. It can react much more quickly when pursuing a change in policy and, therefore, similarly react when dealing with citizens' requests. This was evident when it had to react to the recent Covid crisis. So, unlike the UK Civil Service often labelled a machine bureaucracy (Mintzberg, 1979), the Gibraltar Civil Service is fully capable and equipped to tackling and erasing complaints related to delays, non replies in communication and in-action.

We'll return to the concept of Lean Staff Models later after discussing results of the study. In this context, our readers are reminded that up to 33% overall complaints received by the Office of the Ombudsman in 2022, relate to delays and non replies in communication and regrettably, in-action by departments. Let us, therefore, now analyse in detail the existing points of engagement between citizens and Government Departments.

7.6 Interaction between the Citizen & Public Official

Historically, very little [if any] overall scrutiny has been accommodated within the Civil Service. Instead, as structural changes have been introduced over time, these have been the result of knee-jerk reactions as opposed to any contribution based on properly planned strategies. These were mainly accommodated to (a) replenish staff complements resulting from promotion and/or natural wastage, (b) fulfil political objectives and (c) driven by negotiation with trade unions. This study will, therefore, focus on the backbone of the Civil Service whereby day-to-day clerical core and routine activities are undertaken in response to Government policy. It is at this level that the greatest impact is felt by members of the public, because this is principally the point of engagement- the front end that deals with service users forming the basis of any perceived relationship.

7.7 Assessment

Comparisons have been portrayed at points of engagement between the citizen and Government Department, that is focusing particularly on the `Executive Officer-Administrative Officer and Assistant Administrative Officer level. This involves studying corresponding Ratios and ascertaining whether they are indeed, balanced appropriately when considering suitable spans of control in the traditional public sector model discussed in this study.

Earlier discussion shows that a good rule of thumb would be to accommodate up to a minimum between 3 and maximum of 6 Administrative Officers (or their equivalent) under the supervision of one Executive Officer. This margin spanning 1:3 to 1:6 (i.e., divisible ratios being from 0.33 to 0.17) appears sensible and sufficiently apportioned to introduce proper supervision that delivers (a) routine core functions, (b) measurable outcomes, (c) staff welfare, (d) cover for absenteeism, and (e) flexibility when tackling planned change as a result of any shift in policy.

It is felt that discussing Style of Leadership and Job Satisfaction falls outside the realms of this exercise, but suffice to say that they do have a part to play when considering managerial behavioral interaction. That said, the Executive Officer's ability to manage depends on having the following specific attributes like (1) depth of experience, (2) qualifications, (3) core skills, (4) work ethic, and to some extent, (5) maturity. In addition, the manager's role is directly affected by [their] respective relationship with the next upwards level of line management- in this case, it would relate to interaction with the Higher Executive Officer (HEO) and so on. This will involve matters including level of empowerment, (authority to cross ring fenced boundaries), behavioral dynamics, (depth of bond and relationship between Manager and Line Manager) and accountability i.e., obligations to comply with General Orders and Financial Management Regulations. These are all important issues when considering the following.

Please note that this study is not an exact picture of front line resources though it is indicative. For example, there are contributing factors that should be taken into account and these are:

- i. During the 12 month period 2022 to 2023, establishment figures will fluctuate in real time as and when staff (a) exit on retirement, (b) transfer on promotion, or are (c) redeployed due to long term absenteeism. So, under these circumstances alone, fulfilling vacant posts is primarily dependent on how quickly the Human Resources Department is able to react and tackle recruitment.*
- ii. Changes in political priorities will have a huge effect like what happened with the commendable redistribution of staff to comply with strategic plans introduced by the Civil Contingency Committee whilst responding to the recent Covid 19 crisis and don't forget the ongoing Brexit challenges.*
- iii. Staff from the Gibraltar Development Corporation (GDC) which normally undertake an administrative role are excluded. This is because the Approved Government of Gibraltar Estimates of Revenue & Expenditure 2022/2023 does not give details of GDC grade, role and discipline- only staff numbers employed in specific Departments. GDC clerical grades will, therefore, have some bearing and influence on front line services.*

Taking all the above into account, the methodology continues to represent a good and realistic picture at the point of interaction between the citizen and public official. So, considering all these dynamics, each important in their own right, let us now proceed and look at the results.

7.8 Empirical Data

It should be noted that relevant staff detail is provided in Appendix A. This lists the numbers of Administrative Assistants (AA), Administrative Officers (AO), Executive Officers (EO), Higher Executive Officers (HEO), Senior Executive Officers (SEO) and Senior Officers (SO) in the HMGoG Civil Service. It excludes junior grades such as personal secretaries, typist/word processors and receptionists- these deemed negligible for the purposes of this exercise. The reader is also reminded that we will concentrate primarily on the point of contact between citizens and administrative public officials and, therefore, technical and/or specialist professional grades are not included, because they generally operate independently. That is, professional workers are expected to work from technical knowledge, ability, and devotion to specific principles, values, and norms (Andersen, 2009), and are, therefore, generally expected to require less direct attention from management. Thus, managers of professionals might deal with substantially larger spans of control than those expected by the classic organisational theorists (Jacobsen *et al*: 5-37). However, this is not necessarily the case within HM GoG. The data provides a realistic picture on how the hierarchies are currently constructed (or have historically evolved) showing their respective ratios between the EO (the Manager) and AA plus AO (the administrators). All these are represented as divisible values to facilitate in constructing a simple graphical histogram.

Please note that this does not cover the Gibraltar Health Authority, and other Agencies as they are particularly specialized organisations which should be viewed and tackled as a separate exercise.

Overall, the data covers the main Civil Service Departments, but of the 47 listed, only 18 are considered relevant in the exercise. The main difference between both is the fact that those excluded, predominantly comprise of professional and specialist grades and as mentioned earlier, tend to operate independently. Let us by illustration, consider the 'Office of the Financial Secretary' whereby Appendix 1 shows a total of 13 staff, i.e., 3 Senior Officers, 2 Senior Executive Officers, 2 Higher Executive Officers, 4 Executive Officers and 2 Assistant Administrative Officers and negligible administration. It

should be noted that its primary role [dealt therein] is specialist in nature, i.e. production of budgets, financial forecasting, financial monitoring and advisory counseling responsibilities, over the entire Government public service. It is involved in highly complex and specialist operations that are sensitive in nature and, therefore, have little contact with citizens. Instead, their staff communicate internally across the Civil Service. So, traditional spans of control is neither relevant nor appropriate in this example and, therefore, it is excluded from the analysis. Similarly, this is argued to be the case for other Departments that are specialist and technically orientated in output.

So, for each relevant Civil Service Department we are then able to calculate corresponding span of control ratios at the point of public administrative engagement with the citizen and as mentioned earlier, to simplify and illustrate this further, let us convert the ratios into divisible numbers, e.g., a ratio of (1: 2) gives 0.5, and similarly (1: 3) gives 0.33 and so on, then it is possible to construct an overall picture of the data- please see Figure 11. In addition, and for ease of reference, the medium span of control margins are graphically superimposed onto the histogram. This facilitates to visualise where the suggested boundaries should be positioned and how they fall and are compared to with other Departments.

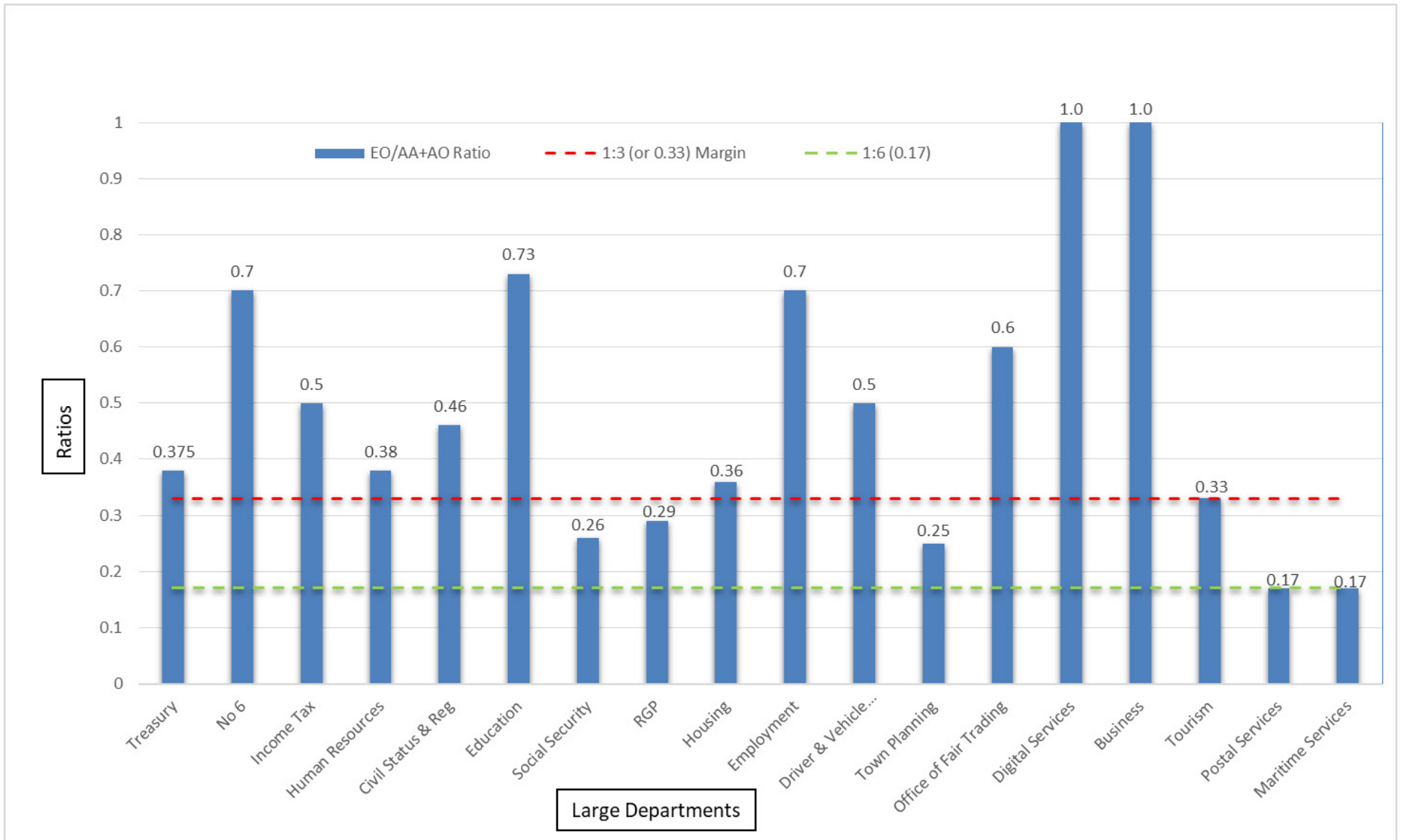


Figure 11: Chart showing departmental ratios specific between EO and (AA + AO)

Figure 11 does provide substantial detail and for ease reference, let's further consider categorizing the main margins of spans of control, by focusing our attention mainly at the administrative point of contact between citizens and public officials- please see Figure 12 below.

Span of Control	Ratio Bandwidth	Manager/Administrator Ratios
Narrow (includes very narrow)	0.33 – 1.0	(1:3) to (1:1)
Medium	0.17 – 0.33	(1:6) to (1:3)
Wide (includes very wide)	0.0 – 0.17	(0:0) to (1:6)

Figure 12: Span of control/supervision ratio bandwidths

Research proposes that there are broadly 3 categories representing spans of control in the structure of organisations which are comprised (a) narrow, (b) medium and (c) wide. In the context of this exercise, the narrow bandwidth is represented as the Ratio from 1:1 to 1:3, and similarly, medium range being 1:3 to 1: 6 and finally, wide being 1:6 to 0:0. Let's now discuss the results.

7.9 Discussion of Results

When considering [these] ratios, research suggests that a good rule thumb is 1:3 to 1:6. However, when studying the Chart in Figure 11, it appears that many Departments fall outside these margins, representing both (i) exceptionally narrow spans of control and (ii) narrow spans of control. But earlier in the report, it is mentioned that traditional structures like the Civil Service tend to apply narrow spans of control when considering its historical development though this does raise some questions which will be discussed later.

Considering the introduction of Digitalization then why have staff ratios at the front end been allowed to reach exceptionally narrow levels in Departments that have continuous interaction with members of the public, i.e., fewer administrators (doers) dealing with citizens? Is this service user conducive? Obviously not? So, it is argued that when applying narrow spans of control in Government Departments, this can contribute greatly to the number of complaints relating to delays in communications, non replies and inaction. This is particularly true when there are insufficient administrators in place to deal with citizen enquiries. Instead the evidence portrays a different picture of multiple management layering, which supposedly involve other activities such as planning and organizing operations as opposed to dealing directly with the public. Furthermore, the distribution of staff in Figure 11 clearly shows Departments like Income Tax, Civil Status & Registration Office, Education, Housing, Employment, and Digital Services, etc, all falling way out of the adequate span of control boundaries, when in practice they would need far more *doers* at the front end. These all share greater numbers of multiple managerial layers and one should ask whether this is indeed necessary? For example, looking at Figure 11, the only Departments lying within the medium span of control boundary is Social Services, Royal Gibraltar Police, Tourism and Town Planning. These all have good organizational balance, but the Public Services Ombudsman continues to consistently receive complaints in respect of these Departments and they are increasing. So, why is this the case? Is it possible that posts shown in the establishment figures are not being filled or could it be that staff are being diverted to other Departments as priorities change, or is this simply 'robbing Peter to pay Paul'. However, upon drafting

this Report, it is understood that recruitment is about to happen in order to fulfill vacancies within Assistant Administrative grades- the doers. This is good news and should the above span of control boundaries be kept within consideration then it is argued that the number of complaints generated against Government Departments should correspondingly fall?

It is worth noting that Departments having wider spans of control such as the Postal and Maritime services attract very few complaints and this is an interesting observation. Is this the result of more administrators (the doers) being used at the front end? Indeed, it is suggested that this is truly a case to consider.

Though not an exhaustive list, Figure 13 gives a brief summary of the main observations across selected Civil Service Departments undertaken in the exercise. It is suggested that public organisations having more interaction with the general public should structurally fall within the medium span of control and not as currently the case, positioned in narrower margins. It is argued that this would facilitate and improve communications between public officials and citizens, increase response times when dealing with enquiries and reduce in-action where this has appeared in the past.

STRUCTURAL SPAN OF CONTROL AT LOWEST ECHLONS- BETWEEN CIVIL SERVICE OFFICIALS AND CITIZENS

Exceptional Narrow Span of Control	Narrow Span of Control	Medium Span of Control	Wide Span of Control
<p>No.6 Convent Place Education Employment Office of Fair Trading Digital Services Business</p>	<p>Treasury Income Tax Human Resources Civil Status & Registration Housing Driving & Vehicle</p>	<p>Social Security Royal Gibraltar Police Tourism Town Planning</p>	<p>Postal Services Maritime services</p>
<p>Structurally very top heavy; Excessive managerial layers due to predominance in leadership activities and policy; Very few administrators and doers dealing with citizens; Layering causes slow and poor response time between public officials and citizens.</p>	<p>Structurally top heavy; Many managerial layers; Low number of administrators (insufficient doers) dealing with citizen enquiries; Slow and poor response times when dealing with citizens.</p>	<p>Good structural balance; Appropriate managerial layers; Sufficient number of administrators (doers); Seemingly appropriate response times when dealing with citizens.</p>	<p>Low managerial layers; Plenty of administrators (doers); Quick response time when dealing with citizens.</p>

Figure 13: Alignment to spans of control/supervision

Organisations have, therefore, generally evolved over time becoming increasingly complex with alternative support systems being integrated to focus and encourage on greater efficiency. One such instrument is the application of digital technology which has become widely applied at the point of engagement between citizen and public officials. For example, in the case of the Gibraltar Government, the recent Covid 19 pandemic forced its hand into physically separating the citizen from public officials, i.e., removing public counters. Consequently, such has given leverage towards accelerating the adoption of online facilities and, therefore, the concept of Digitalization is alive and kicking. However, as explained in the last Public Services Ombudsman Report (Coram, 2021:34-35), this has not been without its fair share of problems.

7.10 Further Commentary

Last year's 2021 Annual Report highlighted that 29% of all complaints were in relation to delays in communications, non-replies and in-action by Government Departments. This appears to be similarly the case in 2022 with 33%. In fact, this is an ongoing theme year-upon-year stemming right back to the days of the first Ombudsman, namely Mr Henry Pinna some 23 years ago.

It begs the question as to why little appears to have been done by successive Administrations into tackling this endemic problem? Is it because the current situation is acceptable? Is it because successive Administrations are unwilling to recognise generally, that this problem exists? Could it transpire that they accept the status quo and for all intents and purposes, prefer concentrating on other much more important priorities? These are all worthy of note.

It is suggested that further attention is focused on reviewing the existing spans of control at lower hierarchical levels, i.e., points of administration interacting with the general public on a day-to-day basis. For example, many of the Departments generating most complaints are currently in traditional positions that in the past would have been acceptable, but are now out of date. These can be repositioned in more appropriate margins which research suggests would be better suited

towards generating improvements when dealing with the general public. This means that Government Departments that deal directly with citizens, should have more administrators (doers) rather than planners and organisers. So, most changes in structure are made at the edges, such as by allocating one or two people to an ad hoc team. By adopting this approach, the basic structure is left intact, while all other aspects revolve and change around it. This gives great flexibility but still enables organisations to keep their structures simple, divisionalised and autonomous. Such simple structures require only a small, lean staff at the corporate and middle management levels, resulting in fewer middle management and more doers. So, flatter structures with fewer layers and slimmed-down bureaucracies- which together allow flexibility and rapid communication- are the order of the day: Simple form and lean staff structures.

There is currently big investment in technology via the platform of Digitalization. Could this be the panacea of all bureaucratic ills? Will this directly make the difference and improve the issues raised earlier in this report? Dependence on Digitalization alone will not make the difference, because being an artificial point of engagement would spark off other types of complaints mainly attributed to the impersonal nature of interaction. In addition, we await the impact of AI and how this will change public services in the future.

It is increasingly clear that changes to our socio-economic norms are attracting approaches reminiscent of past scientific management- time and motion studies- where measurement of outcomes and efficiency is king particularly now with the ever growing use of digital technology. This accordingly brings us to the final section of the year's Annual Report, which comprises our main overall conclusions and recommendations.

8.0 ANNUAL REPORT CONCLUSIONS & RECOMMENDATIONS

It should be pointed out that no feedback has been given with respect to (a) The Venice Principles and (b) Own Motion proposals and frankly, there is little point in raising these again and again when they are simply parked to one side. Recommendations made by the Ombudsman are there to be taken seriously and introduced as necessary in order to have a perceivable positive impact in public services and not some passing comment. What point is there in the Ombudsman making contributions if these are simply not taken seriously? Indeed, if any recommendation is in conflict with Government policy and is not in the wider public interest to be considered at the time, then by all means park it, but at the very least offer some public explanation as to why this may be the case. The Ombudsman has no sharp teeth and it is about time that this is properly reflected in legislation.

A total of 372 complaints were received by the Office of the Public Services Ombudsman during 2022. Of these, a total of 371 complaints were finalised during the year. It follows that over the last 5 years (please see Figure 4) the trend in complaints was generally declining though understandably, as a result of the Covid 19 pandemic, this rose quite sharply in 2021 as historical grievances held back in 2020 were being pushed forward into 2021. Similarly, it appears that this trend may have continued into 2022 with a slight negligible increase in complaints when compared to 2021. Despite genuine efforts by public departments to introduce improvements, the Office of the Ombudsman continues to receive complaints mainly in the following areas: Housing Authority, Department Social Security, Gibraltar Health Authority, Civil Status & Registration Office, Tax Office, and Royal Gibraltar Police. Overall, this shows that up to 33% continue to be related to delays, non-replies and inaction which is an increase from 29% in 2021. Nevertheless, for all intents and purposes public Departments do what they are supposed to do, but can they do better?

A hypothesis is proposed that suggests further review should be considered at the points of engagement between public officials and citizens. In this context, in the Approved Government of Gibraltar Estimates of Revenue and Expenditure 2022/2023, there is evidence pointing to the fact that Departments with the highest levels of complaints tend to be those that have narrow spans of control at the front end of public services. Instead these tend to have more managerial layers rather than doers actually undertaking the work.

The application of Digitalization will help public servants identify and track issues raised by citizens much more quickly, but will this improve our public services? It is suggested that this will certainly speed up citizen enquiries though this may also reinforce approaches borrowed from the past known as neo-scientific management approaches- principally these are all about determining output efficiency. For instance, the interface between citizen and public official will become more impersonal when compared to the past. So, this may introduce a different trend of complaints more to do with the unfamiliarity of process, frustration, and failure to advance an enquiry. There will also be people less well off in society who will be unable to afford new technology. Instead, they are now obligated into accessing public services via Government websites unlike before when you simply visited a public counter and had face-to-face contact.

Inevitably, citizens will have to learn and utilise online internet technology very much like the analogy of driving a car. In time they will become familiarised [but] not everyone will pass their driving test and it is especially these that may become alienated. Let's illustrate this further by considering the following. A flash well-dressed television presenter asks a question in a quiz show and the participant gives an incorrect answer. Moments later, a trapdoor appears and the unsuspecting player is swallowed up through the floor, or worst still sprayed with some foul substance. Similarly, this feels the same for many citizens who with enormous enthusiasm try to complete an online application or make an enquiry. When doing so and despite what appears to be accompanying idiot proof guidelines, they, nevertheless, generate a reply that the computer does not recognise, or often being the case, they become entangled in platform language perhaps familiar to many though regrettably not in the case of this user. The whole experience then ends with a meaningless exchange for the user who is left frustrated and unable to successfully complete the process.

In few cases, this may lead to tech phobia- a common psychological condition involving a deep personal indifference and/or fear of tech devices and for all intents and purposes leaves the person disadvantaged.

It is, therefore, very important to consider the impact of new technology and whether this is marginalising certain demographical groups.

It appears, however, that this has already been anticipated to some degree by the Digital Services Department who have introduced a Central Station that is helping, advising and supporting citizens. This is located opposite the John Mackintosh Hall and thankfully it has been useful in facilitating people by appointment to engage in new technology and what inevitably is the way our community's public services are being delivered.

It would be in the public interest to undertake a survey to test whether these conclusions maybe substantiated. Will the number of complaints rise? Will complaints be different from before? Will the application of digital technology between service users and public officials create greater marginalisation within our society rather than generally do what it's supposed to do, i.e., simplify delivery of public services? For some, will the unfamiliarity of modern internet technology platform affect citizens' ability into seeking a public service- this is particularly relevant when considering access to health services? Will those unable to afford expensive technological devices like laptops or terminal computers feel even more alienated when compared to before? Will this affect and exacerbate interaction with those more vulnerable within our community? What message does this portray about us collectively and how will this be reflected in the path being taken? Perhaps many of these issues should be explored and debated. Nonetheless, whether people like it or not, the use of digital technology is now a prominent mechanism when seeking any information, services and engagement. Those unable or unwilling to embrace this will be left behind and become disadvantaged.

There is no management panacea for all organisational woes, but rather there are numerous approaches that are better suited to specific scenarios. Further, all management approaches exhibit their own drawbacks and benefits and, therefore, one must closely weigh up what is best suited for the product and/or service being delivered. Here, the onus is focusing on (a) public services, (b) considering point of citizen-public official interaction and (c) introducing what is considered to be a better approach under these circumstances. Therefore, wider spans of control/supervision for improved vertical communication is advisable to reduce the repetitive cycle of communication delays, non-replies and in-action, which nowadays together with the application of digital technology should in theory be eliminated altogether.

Leading on to the final note, assessing the number and types of complaints received portrays an effective overall picture on how a public service is performing. With this in mind, according to the evidence available, public services generally are doing what they are supposed to do though obviously this can be done better. Indeed, no system is perfect, but looking forward in terms of strategic planning, it is hoped that lessons can be learnt from this Annual Report.

9.0 BIBLIOGRAPHY

- Burnes, B. (1996) *Managing Change: A Strategic Approach to Organisational Dynamics*, 2nd Edition, Pitman, Great Britain, Glasgow.
- Burnes, B. (2014) *Managing Change*, 6th Edition published by Pearson Education Ltd, Edinburgh.
- Coram, W.R. (2021) *Public Services Ombudsman, Annual Report 2021: Presented to the Gibraltar Parliament*, published in 2022 by the Office of the Ombudsman.
- Farnham, D & Horton, S. (1996) *Managing the New Public Services*, 2nd Edition published by MacMillan, Basingstoke UK.
- Gulick, L. (1937) *Notes on the Theory of Organization*, published by Columbia University Institute of Public Administration 1937.
- Handy, C. (1989) *The Age of Unreason* published by Arrow London.
- Herzberg, F. (1968) *One More Time: how do you motivate employees?* Harvard Business Review.
- Hicks (1958) *Public Finance*, published by Walwyn-James Nesbit.
- HMGOG (2022) *Approved Government of Gibraltar Estimates of Revenue and Expenditure 2022/2023*, published by HM Government of Gibraltar.
- Hughes, O.E. (1994) *Public Management & Administration- an Introduction*, published by Macmillan Press Ltd.
- Jacobsen, C.B., Lundberg Hansen, A.K. & Pedersen, L.D. (2022) *Not too narrow, not too broad: Linking span of control, leadership behaviour, and employee satisfaction in public organisations*. A research article published by the Public Administration Review.

Kast, F.E. & Rosenzweig, J.E. (1985) Organisation & Management: A Systems and Contingency Approach, 4th Edition, published by McGraw-Hill International Editions Singapore.

Kanter, R.M. (1989) When Giants Learn to Dance: Mastering the challenges of strategy, management, and careers in the 1990s, published by Unwin London

Lindgren, I., Madsen, C., Hofmann, S. & Melin, U. (2019) Close Encounters of the digital kind: A research agenda for the digitalization of public services, published in Science Direct, Government Information Quarterly, volume 36, issue 3, July 2019, pages 427-436.

Maslow, A.H. (1943) A Theory of Human Motivation, Psychological Review, July 1943, pp. 370-396

Mayo, E. (1933) The Human Problems of Human Civilisation published by McMillan, New York.

McGregor, D. (1960) The Human Side of Enterprise, published by McGraw-Hill Company, New York 1960.

Metcalf & Richards (1987) Improving Public Management, 1st Edition published by Sage London.

Mintzberg, H. (1979) The Structure of Organisations, published by Prentice Hall, Englewood Cliffs, NJ.

Mullins, L. J. (1993) Management and Organisational Behaviour 3rd Edition published by Pitman Press, London.

Peters, T & Waterman, R.H. (1982) In Search of Excellence: Lessons from America's best-run companies published by Harper & Row London.

Taylor, F. (1947) The Principles of Scientific Management, Harper, New York, USA.

Weber, M. (1947) The Theory of Social and Economic Organisation (trans), published by Free Press, Glencoe, Illinois, USA.

Van Fleet, D & Bedian, A. (1977) A history of the span of management, According of Management Review, July 1977.

APPENDIX A

Details from Approved Government of Gibraltar Estimates of Revenue and Expenditure 2022/2023

ITEM		GRADES									ITEM
DEPARTMENT (Page No.)	HEAD	AA	AO	EO	HEO	SEO	SO	Total	EO/AO Ratio (divisible)	EO/AA+AO Ratio (divisible)	REMARKS
Treasury (18)	1	20	20	15	9	6	2	72	3:4 (0.75)	3:8 (0.38)	EO to AO levels are top heavy, because Dept is involved in specialist accounting operations and control of Govt finances.
No. 6 Convent Place (21)	2	4	6	7	4	2	3	26	7:6 (1.17)	7:10 (0.7)	Top heavy structure with numerous managerial echelons resulting from Dept having to lean towards leadership issues.
Off of Chief Tech Officer (24)	3	1	1	1	1	0	1	5	1:1 (1.0)	1:2 (0.5)	Null and void- Dept based on outsourcing technical activities, specialist grades and not dependent on administrative support.
Customs (26)	4	0	1	59	0	13	3	76	59:1 (null & void)	59:1 (null & void)	Null and void- Dept is primarily specialist grades and not traditional administrative but goods revenue raising.
Income Tax (28)	5	16	15	16	10	3	1	61	16:15 (1.07)	16:31 (0.5)	Top heavy with many EOs in structure perhaps due to its complex authoritarian role in capturing revenue.
Parliament (30)	6	0	1	1	1	1	0	4	1:1 (1.0)	1:1 (1.0)	Null and void-small and highly important Dept passing legislation led by Govt.
Human Resources (33)	7	24	18	16	10	5	1	74	8:9 (0.88)	8:21 (0.38)	Top heavy with many senior management levels representing crucial role in the recruitment and welfare of staff issues.
Immigration & Civil Status (36)	8	3	10	6	4	1	1	25	3:5 (0.6)	6:13 (0.46)	Top heavy- the question is why?. This is one of the Depts attracting many complaints.
FS Office (38)	9	2	0	4	2	2	3	13	4:0 (null & void)	4:2 (2.0)	Null and void- Department is primarily based on specialist grades and not traditional administrative support.

ITEM		GRADES									ITEM
DEPARTMENT (Page No.)	HEAD	AA	AO	EO	HEO	SEO	SO	Total	EO/AO Ratio (divisible)	EO/AA+AO Ratio (divisible)	REMARKS
Gov Law Office (40)	10	2	5	3	2	1	0	13	3:5 (0.6)	3:7 (0.43)	Null and void- Dept is primarily based on specialist grades and not traditional administrative support.
Public Services Support Unit (44)	See HR									N/A	Null and void
Office DCM (46)	11	1	2	2	1	1	0	7	2:2 (1.0)	2:3 (0.67)	Top heavy. Small Office though highly technical, dealing with complex issues.
Civil Aviation (49)	12	0	0	0	0	0	1	1	Null & void	Null & void	Null and void- Dept is primarily based on specialist grades and not traditional administrative support.
Environment (51)	13	0	4	5	4	1	1	15	5:4 (1.25)	5:4 (1.25)	Top heavy particularly due to middle and senior management layers.
Upper Rock Tourist Sites & Beaches (58)	15	3	1	2	1	0	N/A	7	2:1 (2.0)	1:2 (0.5)	Null and void- Department is primarily dealing in tourism ticket revenue and not traditional administrative support.
Education (61)	16	4	7	8	2	1	1	23	8:7 (1.14)	8:11 (0.73)	Top heavy particularly at middle management levels.
Culture (70)	19	1	0	2	1	0	0	4	2:0 Null & void	2:1 (2.0)	Null and void
Driver & Vehicle Licen (73)	20	3	3	3	1	0	0	10	1:1 (1.0)	1:2 (0.5)	Top heavy.

ITEM		GRADES									ITEM
DEPARTMENT (Page No.)	HEAD	AA	AO	EO	HEO	SEO	SO	Total	EO/AO Ratio (divisible)	EO/AA+AO Ratio (divisible)	REMARKS
Tech Services (76)	21	0	6	3	1	1	1	12	1:2 (0.5)	1:2 (0.5)	Top heavy though Department is primarily based on specialist grades and not traditional administrative support.
Social Security (81)	22	7	16	6	2	1	1	33	3:8 (0.38)	6:23 (0.26)	Good managerial proportions and structurally balanced.
Stats Office (83)	23	N/A								N/A	Null and void- Department is primarily based on specialist grades and not traditional administrative support.
Economic Dev (85)	24	2	4	1	2	1	1	11	1:4 (0.25)	1:6 (0.17)	Suitably and adequately supported.
Procurement (88)	25	0	2	3	3	1	0	9	3:2 (1.5)	3:2 (1.5)	Null and void- Department is primarily based on specialist grades and not traditional administrative support.
Justice (90)	26	1	1	4	1	0	1	8	4:1 (4.0)	2:1 (2.0)	Null and void- Department is primarily based on specialist grades and not traditional administrative support.
Gib Law Courts (94)	27	4	9	9	2	2	1	27	1:1 (1.0)	9:13 (0.69)	Null and void- Department is primarily based on specialist grades and not traditional administrative support.
Police (97)	28	3	11	4	1	1	1	21	4:11 (0.36)	2:7 (0.29)	Top heavy in the middle management range.
Prison (100)	29	0	2	1	0	0	1	4	1:2 (0.5)	1:2 (0.5)	Null and void- Department is primarily based on specialist grades and not traditional administrative support.

ITEM		GRADES									ITEM
DEPARTMENT (Page No.)	HEAD	AA	AO	EO	HEO	SEO	SO	Total	EO/AO Ratio (divisible)	EO/AA+AO Ratio (divisible)	REMARKS
Equality (102)	30	2	0	1	1	1	0	5	1:0 Null & void	1:2 (0.5)	Null and void-small Dept with increasing level of evolving importance.
Civil Contingency (104)	31	N/A								N/A	Null and void- Department is primarily based on specialist grades and not traditional administrative support.
Town Planning (108)	33	0	4	1	0	0	0	5	1:4 (0.25)	1:4 (0.25)	Suitably and adequately supported.
Office Fair Trading (111)	34	2	3	3	1	0	0	9	1:1 (1.0)	3:5 (0.6)	Top heavy.
Fire & Rescue Service (113)	35	0	1	1	0	0	1	3	1:1 (1.0)	1:1 (1.0)	Null and void- Department is primarily based on specialist grades and not traditional administrative support.
Housing (117)	37	6	5	4	1	1	1	18	4:5 (0.8)	4:11 (0.36)	Top heavy at middle and higher management levels.
Employment (120)	38	3	7	7	6	1	0	24	1:1 (1.0)	7:10 (0.7)	Top heavy at middle and higher management levels.
Youth (122)	39	N/A								N/A	Null and void- Department is primarily based on specialist grades and not traditional administrative support.
Sport & Leisure (124)	40	1	2	0	1	0	0	4	0:2 Null & void	0:3 Null & void	Null and void- Department is primarily based on ticket reception issues.

ITEM		GRADES									ITEM
DEPARTMENT (Page No.)	HEAD	AA	AO	EO	HEO	SEO	SO	Total	EO/AO Ratio (divisible)	EO/AA+AO Ratio (divisible)	REMARKS
Digital Services (126)	41	1	3	4	2	1	1	12	4:3 (1.33)	1:1 (1.0)	Top heavy possibly as a result of complex output activity.
Info Tech & Logistics Dept (128)	42	N/A								N/A	Null and void- Dept is primarily based on specialist grades and not traditional administrative support.
Financial Services (132)	44	0	0	3	1		0	4	3:0 (Null & void)	3:0 (Null & void)	Null and void- Dept is primarily based on specialist technical grades and not requiring traditional administrative support. .
Gambling Division (135)	45	0	0	1	1	1	0	3	1:0 (Null & void)	1:0 (Null & void)	Null and void- Dept is primarily based on specialist technical grades and not requiring administrative support.
Health & Social Care (138)	46	0	0	0	1	0		0	Null & void	Null & void	Null and void- Department is primarily based on specialist grades and not requiring traditional administrative support.
Drug & Alcohol Awareness (144)	49	N/A								N/A	Null and void- Department is primarily based on specialist grades and not traditional administrative support.
Business (151)	51	0	1	1	2	0	1	5	1:1 (1.0)	1:1 (1.0)	Top heavy.
Tourism (153)	52	0	3	1	1	1	0	6	1:3 (0.33)	1:3 (0.33)	Slightly top heavy.

ITEM		GRADES									ITEM
DEPARTMENT (Page No.)	HEAD	AA	AO	EO	HEO	SEO	SO	Total	EO/AO Ratio (divisible)	EO/AA+AO Ratio (divisible)	REMARKS
Postal Services (156)	53	2	10	2	1	0	1	16	1:5 (0.2)	1:6 (0.17)	Suitably and adequately supported.
Maritime Services (161)	55	2	4	1	1	0	1	9	1:4 (0.25)	1:6 (0.17)	Suitably and adequately supported.
Gib Audit Office (164)	56	N/A								N/A	Null and void- Department is primarily based on specialist grades and not traditional administrative support.

APPENDIX B
INDIVIDUAL INVESTIGATIONS – Full Text

REPORT ON CASE NO 1241

Complaint against the Housing Department (“Housing”) in relation to the non-grant of his application to become a joint housing tenant despite having been previously accepted as a housing applicant from the same address

Complaint

The Complainant, a man in his late fifties, complained that despite having resided in his parents’ government rented flat for approximately fifteen years (after the breakdown of his marriage), he was refused permission to be added to the tenancy as a registered joint tenant.

Background

[Ombudsman Note]: *The background is mainly based on the version of events provided by the Complainant, including supporting documentation, at the time of lodging the complaint with the Ombudsman.*

The Complainant was allowed to become a housing applicant in 2011 (the statutory restrictions of clause 5(d) of the Housing Allocation Scheme (Revised) 1994, having been waived by Housing in the Complainants favour). He applied for housing from his parents address as that was where he was residing. Housing informed him that he could use the address for application purposes only and that he would not be recognised as a tenant of that property. The reason given to him at the time was that his brother lived in the flat and that, as an adult, it was deemed by Housing that the flat would be overcrowded if he were allowed to reside there (the flat was a 2 bedroom). However, the Complainant continued to live there with his elderly parents and brother until matters changed in 2021.

During the course of January and February 2021, both his father and brother passed away from Covid-19. The Complainant issued a letter to Housing seeking to be recognised as tenant since the issue of “over-crowding” no longer applied given the tragic circumstances. He was then told that he could not be recognised as a tenant of that flat because he had owned private property previously (during his marriage).

The Complainant decided to write to the Government at ministerial level. He explained how he lived at Blue Wave House with his elderly mother (aged 87), and how she was entirely dependent on him. The Complainant stated how the tenancy was held in the name of his late father who had passed away from Covid-19 on the 30th January 2019. The household composition had consisted of his parents, himself and his late brother who had also tragically succumbed to Covid-19 on the 12th February 2021.

He explained how he was not authorised to reside in the property even though he had lived with his parents at two government property addresses for the past 15 years (since his divorce) and that he was only allowed to utilise the address for application purposes firstly as a result of “overcrowding” and then, because he had been a previous homeowner; even though he had not benefitted financially from the same, since his ex-wife kept the former matrimonial home at the time of separation in 2007. He went on to state how he was currently on the housing waiting list (at position 52) and that he had also applied to purchase on the Government co-ownership schemes in the recently launched housing developments of either Bob Peliza or Chatham Mews.

Given that the current family composition had decreased by four household members to two, in the most traumatic of circumstances, and that his mother was his dependent, he asked the Minister for Housing to reconsider his position. In addition, he was concerned that given his age, he would have difficulties in securing a mortgage over any Government co-ownership property granted for purchase. (Realistically, the Complainant would be in his sixties by the time the co-ownership properties would be ready for occupation).

The Complainant received a prompt reply from the Ministers office, firstly expressing sincere condolences for his loss.

It was explained to him that his request was not possible for the reasons previously explained and that unfortunately, “rules could not be circumvented”. The reply also stated how Housing was aware that he had applied for a co-ownership property and that such application had been granted- indeed, they stated “you have already been given the opportunity to select a flat.” They expressed the view that the offer to purchase was the best option available to him to secure housing in the circumstances and one that they strongly advise he take, which he did.

The Complainant wrote a further letter to Housing asking whether, in the event of his elderly mother’s death before the completion and handover of the Government co-ownership scheme flat, he would be allowed to continue to reside in the current property. In reply, he was told that any requests would have to be considered “at the time of that unfortunate event, should it occur”.

The Complainant considered the reply and wrote back stating that this afforded him little reassurance. Again he explained his personal circumstances and further expressed the view that he believed Housing had given him mistaken information in relation to legal tenants of Government properties. He understood policy to be that if a married person subsequently separated (and the former matrimonial home was awarded or assigned to the ex-partner), the remaining ex-spouse would be entitled to become a housing applicant and a legal tenant of a Government property if he found himself living there.

Independent to this view and acting upon the advice of Housing, the Complainant accepted the offer to purchase a property (at Bob Peliza Mews). He paid the initial contractual deposit of £500 to secure the purchase. However, he had estimated (correctly in the Ombudsman’s view) that by the time the property was built and handed over to owners, he would be in his sixties, retired and unable to obtain a mortgage at that age.

On the basis that Housing had made an alleged error and had not applied appropriate policy in denying his request to become a legal tenant of his parents' Government rental, the Complainant filed his complaint at the Office of the Ombudsman.

Investigation

[The investigation to this case was succinct in that there had been numerous correspondence at the "background" stage between Housing and the Complainant, prior to the complaint having been lodged].

After reviewing all existing correspondence between the Complainant and Housing, the Ombudsman wrote to Housing as per standard practice setting out the complaint and requesting their comments.

The Ombudsman set out his understanding that if a son or daughter lived with their parent for over a year in their Government flat, having already been recognised as satisfying the criteria to become a housing applicant, they were entitled to be recognised as tenant of that flat. The Ombudsman sought confirmation and/or clarification whether indeed, that was the case.

Housing replied confirming that view was erroneous.

They explained that previous homeowners who apply for housing have their applications assessed by the Housing Allocation Committee ("HAC"). They added that in accordance with policy and procedure, previous home owners cannot become legal tenants of a Government rental property, either solely or jointly.

The Government of Gibraltar Housing Allocation Scheme (Revised 1994) at clause 5(d) states that “...People who have been homeowners and have chosen to sell their homes shall not be entitled to go on the public waiting list unless, in the judgement of the Housing Allocation Committee, the sale was genuinely necessary or there is some justification for being admitted...”

“In the case of the Complainant, his [case and circumstances were considered] and he was found to be eligible to become a housing applicant which has facilitated his [future purchase] on Government of Gibraltar assisted housing scheme”.

Based upon the above explanation setting out rules, policy and practice, the Ombudsman considered the position to be quite clear.

Conclusions

The Ombudsman could only sympathise with the exceptionally traumatic circumstances of the Complainants case: from his departure of the former matrimonial home as a direct consequence of divorce as a result of which the Complainant became obliged to move into his parents flat (in 2007); to the horrific events where his father and brother passed away from Covid in 2021.

The Complainant was the only remaining family member now living with his octogenarian mother at the Government rented flat where he had applied (but failed) to secure a joint legal tenancy.

In 2011, the application of clause 5(d) had been waived in the Complainant’s favour, “for application purposes only”. His request to become a joint legal tenant was denied on the ground of “overcrowding”. It was at that juncture that the Ombudsman considers that Housing erred in the explanation they gave the Complainant for disallowing his joint tenancy

request. It seemed illogical that the reason for the denial shifted from “overcrowding” when the household consisted of four family members, to “having owned property in the past” when “overcrowding” was no longer an issue.

Housing should have explained to the Complainant from the outset that “policy” dictated a previous homeowner did not qualify as tenant or owner of Government property. That, in the Complainant’s case, after careful consideration of his circumstances, clause 5(d) had been waived in his favour and that as a result, the waiver did allow him to join (not jump) the housing waiting list- hence his current position at number 52. As an alternative, the waiver also afforded him the option to purchase a Government co-ownership scheme property to which he would otherwise not have been entitled as a previous homeowner.

Although some may consider the Complainant fortunate in that despite his tragic personal circumstances, he was allowed to purchase said property, the reality is that the Complainant (born in 1964 and now retired after full service of employment), will be in his 60s by the time Government is ready to hand over the co-ownership flats. In the event that he has little or no savings, it may well be near impossible to secure mortgage lending. This will leave the Complainant in an unenviable situation where potentially he may find himself unable to proceed with the purchase and way down on the waiting list for the alternative offer of a tenancy. In addition, should his mother decease in the meantime, Housing have confirmed that they would have to consider his request to stay where he currently resides “at the time of that unfortunate event should it occur.” This position offers the Complainant no certainty or peace of mind.

Although the Ombudsman firmly subscribes to the view that we should not be living in a society where citizens shrug off their responsibilities or make no effort to shape their own future independently, living in the expectation of receiving state funded housing by the mere privilege of being “Gibraltarian”, there may be rare circumstances where exceptions could and should be made.

The Ombudsman opines, (despite existing Government policy over which he has no mandate), that for the purposes of this report, if the Complainant is able to prove that he has no savings and either cannot secure private accommodation at the time of his mother's demise or obtain mortgage funding when the flats for purchase are released (whichever is the sooner), he should be allowed to reside as a registered tenant in the flat he currently occupies. He could always be "downsized" if indeed, the composition of the current property exceeds his requirements.

Nonetheless as matters stand, Housing has no legal obligation or policy guided duty to accept the Complainant as a tenant of the flat where he currently resides and consequently this complaint is not sustained (on the facts)

Classification

That Housing misapplied their own policy in denying the Complainant tenant status of the Government rented flat where he resided- Not Sustained.

Observations

It is the Ombudsman's view that the Housing should extend their written policy, allowing them to exercise a further element of discretion in exceptional situations like the Complainants, subject to satisfaction of stringent criteria.

Housing did not accept the Ombudsman's recommendation on the basis that the policy concerned was a HM Government of Gibraltar issue which fell beyond "Housing's" remit to extend.

REPORT ON CASE NO 1247

Complaint against the Department of Education (“DoE”)

(i) Decision on the part of the DoE to reduce his annual scholarship grant was unfair;

(ii) Non-reply to the Complainant’s email of the 17th February 2021.

Complaint

The Complainant was aggrieved because of the decision taken by the DoE to reduce his annual scholarship grant which he believed to be unfair. He was further aggrieved because he had not received a reply from the DoE to an email he had sent to them on the 17th February 2021.

Background *[Ombudsman Note: The background is mainly based on the version of events provided by the Complainant, including supporting documentation, at the time of lodging the Complaint with the Ombudsman].*

The Complainant was a student undertaking the third year of a BSc in a university in the United Kingdom (“UK”) during the 2019/2020 academic year, which ran from September 2019 to June 2020 (inclusive). The Complainant was in receipt of an annual scholarship grant from the DoE which was ordinarily paid out in three instalments; September, December and March of each academic year.

The Complainant explained that due to the lockdowns (“Lockdowns”) put in place by Governments in March 2020, in order to curb the spread of the Covid-19 virus pandemic, most Gibraltarian students undertaking studies in UK universities had to return to Gibraltar. In light of those developments, the DoE carried out an exercise to recoup the unused funds of that last instalment (“Instalment”) and for that purpose asked students to submit evidence of expenses paid out. The Ombudsman requested a copy of the initial communication sent to the Complainant by the DoE (as well as to the other students). It was an email sent out on the 12th May 2020 in which the DoE, amongst other issues, informed the Complainant that under the circumstances, many universities had announced that they would waive accommodation fees for the last term.

Regarding students in private accommodation, the DoE stated that the decision on whether rent would be payable would be taken by respective landlords and liability to pay rent would depend on contractual commitments. The DoE therefore stated that *‘...in order to ensure budgetary fairness amongst scholarship students and to preserve financial equity we must assess each student individually with a view to ascertaining financial commitments outside Gibraltar during this term. Any sum from the maintenance grant not required to meet those financial commitments will be required to be returned. Each of the amounts recovered will be donated in the student’s name to the GHA Covid-19 fund’*.

The Complainant was aware that most students who rented accommodation owned by universities had benefited from a waiver of their rental fees but highlighted that had not been his case as he rented from a private landlord who insisted that he needed to fulfil his contract as agreed in September 2019 for a period of ten months (September 2019 to June 2020 inclusive).

The Complainant explained he received the last grant instalment of £2,033.33 on the 18th March 2020 and made rental payments of £600- and £650- to his landlord as follows:

19th March 2020 Rental payment for the period 17th March to 17th April

7th April 2020 Rental payment for the period 18th April to 17th May

For the rental period 18th May to 17th June 2020 he asked the landlord to offset the deposit against the rent. According to the Complainant, he made that request because the previous year the landlord had taken a long time to return the deposit. The Complainant stated that he was left with £783.33 which he used to cover everyday expenses and his return flight to Gibraltar. He provided the DoE with evidence of his expenses and they reverted that the 19th March payment and the May/June rental offset against the deposit fell outside the 'date bracket' they were applying and he would have to repay £1,383.33; the amount would be deducted from the September 2020 grant instalment.

The Complainant disputed the DoE's outcome and contacted them numerous times by phone to discuss the matter. According to the Complainant, the DoE reviewed his case and that resulted in them 'exceptionally' accepting part of the rental payment made in March to be included as an expense from the Instalment whilst the surplus funds would now be deducted from the January 2021 grant payment. The DoE refused to take into account the rental for the May/June 2020 offset by the deposit. The Complainant argued that his peers had made rental payments from the last instalment and subsequently had the deposit reimbursed. He therefore believed that the DoE were being unfair about the manner in which they were applying the policy in his case.

The Complainant continued to communicate with the DoE via email putting his case across and requesting that they reconsider deducting as an expense the deposit offset towards the last rental payment but was not successful. As a last resort, on the 17th February 2021 he emailed the Director of the DoE (“Director”) to put his case across. Not having received a response by March 2021 he lodged his complaints with the Ombudsman.

Investigation

The Ombudsman presented the complaints to the Director.

In her initial response, the Director stated that there had been many exchanges of communication between the Complainant and administrative staff of the DoE. She explained that the financial assessment was a policy decision taken in the third term of the academic year which had been processed according to the steer provided by Government. She added that the DoE team had worked hard to ensure that a fair and consistent process was applied to all students. The Director advised that the team had only looked at the maintenance grant for the third term and at the transactions (expenses linked to the studies, barring travel as that was factored into a separate allowance in the first grant instalment) submitted by students as evidence for the period April to July 2020 which was the bracket. Those amounts were deducted from the grant and students informed of the outcome upon completion of the 2019/2020 academic year. The Director added that costs incurred for storage arrangements for continuing students and freight/transportation costs for students in their final year were accepted as part of the expenses. The Director added that any financial commitments which students had provided evidence of had been honoured.

In respect to the Complainant’s case, he was informed of the outcome of the financial assessment in September 2020. He disputed the DoE’s assessment from the outset and engaged in many exchanges (communications) with the DoE’s administrative team and that resulted in an adjustment to the assessment in favour of the Complainant. Further exchanges occurred after that point which led to management carefully reviewing all aspects of the assessment to ensure

that the policy criteria had been applied correctly. The Director confirmed that the criteria had been applied correctly with respect to the financial assessment, in a manner consistent with the established criteria. The Director added that the Complainant had insisted on meeting with the DoE when he returned to Gibraltar in December 2020 but in the end failed to contact them to make arrangements as agreed. In accordance with procedure applied to all students who failed to return the funds recalled, the DoE deducted said amount from the second grant instalment of the academic year 2020/2021. It was at that point that the Complainant once again contacted the DoE to complain about the deduction and the fact that he could not cope financially and was reminded that he had neglected to pursue the meeting.

Regarding the non-reply to the Complainant's email of the 17th February 2021, the Director referred the Ombudsman to the substantial number of exchanges between the DoE and the Complainant and stated that as far as the DoE's administrative and financial sections were concerned, the Complainant had received a final outcome albeit not what he had hoped for. The Director stated that his appeal would not result in a change of outcome as she had been reassured by DoE officers that the process was applied correctly. Nevertheless, the Director advised that she would communicate the aforementioned information to the Complainant.

The Director provided the Ombudsman with a copy of the 30th March 2021 email she sent to the Complainant in which she explained that the outcome of the financial assessment had been upheld and his appeal had not been successful.

The Ombudsman requested from the Complainant that he submit proof of rental payments for the academic year 2019/2020 and a copy of the rental contract to substantiate the information provided. These were submitted by the Complainant in July 2021. The monthly rental was £550- a month commencing on the 17/9/2019 and ending on the 16/7/2020, a period of ten months. The Ombudsman noted that the actual bank payments were £600- with the last payment made in April 2020 being of £650-. The Complainant explained that the £50- difference in the monthly payments was in fact the deposit which he was paying on a monthly basis (£50 per month for nine months (£450-) plus an extra £50- in the last payment which added up to £500-). The Ombudsman identified that the Complainant had made four months

rent payment in September 2019 (first grant instalment), three months rent payment in December 2019 (second grant instalment) and two months rent payment from the Instalment (third grant instalment). Upon further review, the Ombudsman established that those two last rental payments were for the period April/May and May/June 2020 and not for the earlier months the Complainant had stated in his letter to the DoE and therefore fell into the timeframe established by the DoE.

The Complainant's contention was that the DoE refused to take into account the last rental expense because that had been offset against the deposit; that is to say that there had been no actual disbursement during the DoE's designated timeframe with respect to the last grant instalment. The Complainant highlighted that many of his peers who had made the last rental payment had that accepted by the DoE and their deposits refunded thereafter.

The Director's position was that the 2019/2020 exercise did not include financial transactions effected outside the period assessed and the first two instalments were paid out before the onset of the pandemic and were not impacted by the Lockdown and therefore not included in the financial exercise. Students kept those funds in their entirety and as such should have been able to fund the financial commitments for those periods.

The Ombudsman reviewed copies of the communications between the DoE and the Complainant. The last communication between him and the DoE which triggered his email to the Director on the 17th February 2021 explained the criteria applied to his financial assessment and the further review carried out and stated the following:

'...that this matter is now resolved and concluded so any further insistence on the matter by pleading ignorance of the 'assessment' or allegations of unfairness that are completely unwarranted will be disregarded'.

Conclusions

The Instalment was paid to the Complainant by the DoE, as well as to other Gibraltar students furthering their studies in UK universities, on the 18th March 2020.

As a result of the Lockdowns imposed shortly after and the fact that many students returned to Gibraltar, the DoE embarked on an exercise to recoup unused funds from that last Instalment. In order to establish the amount to be reimbursed, the DoE asked students to submit evidence of expenses paid out. During the Ombudsman's investigation the Director informed him that for the purposes of that financial exercise, the DoE team had only looked at the maintenance grant paid in the third term and at the evidence of transactions for the period April to July 2020.

In the Complainant's case, the DoE had 'exceptionally agreed' to accept the payment made by the Complainant towards the March/April 2020 rental. The Ombudsman's investigation established that the rental paid from the Instalment was in fact for the period April/May 2020 and therefore fell into the DoE's established timeframe (April to July).

Regarding the DoE not having accepted the offset of the deposit (paid in monthly instalments) against the June/July 2020 rental, the Ombudsman disagreed with the decision for two reasons; that rental fell within the DoE's established period of expenses and as highlighted by the Complainant, had he paid the rental and then had the deposit refunded, as was the case with his peers, no issue would have arisen.

The Ombudsman finds the DoE's decision unfair and recommends that the last rental of £550-, a legitimate expense, be taken into account for the purpose of the DoE's exercise.

Regarding the non-reply by the Director to the Complainant's email of the 17th February 2021, the Ombudsman also sustains that complaint. It is noted that although the last communication from the DoE, an email on the 2nd February 2021, provided detailed information and stated that they considered the matter resolved and concluded, the Complainant opted to escalate the issue with the Director. It was only as a result of the Ombudsman's investigation that a reply was finally provided to the Complainant.

Classification

- (i) Decision on the part of the DoE to reduce his annual scholarship grant was unfair – **Sustained**
- (ii) Non-reply to the Complainant's email of the 17th February 2021 - **Sustained**

Recommendations

The Ombudsman recommends that the £550- rental for the month of June/July 2020 be taken into account by the DoE for the purpose of the financial exercise undertaken.

REPORT ON CASE NO 1257

Complaint against the Royal Gibraltar Police (“RGP”)

Non-Reply from the RGP to the Complainant’s numerous enquiries for information on how his Partner could have a prohibited immigrant notice (“Notice”) rescinded

Complaint

The Complainant and his Partner were aggrieved because the RGP had not replied to the Complainant’s numerous enquiries for information on how his Partner could have the Notice rescinded.

Background [Ombudsman Note: The background is mainly based on the version of events provided by the Complainant, including supporting documentation, at the time of lodging the Complaint with the Ombudsman].

The Complainant was a resident in Spain in 2010 when he and his Partner, a Moroccan national, were married in Morocco. After the marriage, through an EU ‘family reunification visa’, the Partner was able to reside in Spain with the Complainant. The Partner gave birth to their son (“Son”) towards the end of that year.

According to the Complainant, in 2012, his Partner was visiting his mother (Partner’s mother in law) in Gibraltar when she was arrested by the RGP for being an illegal immigrant and taken to the RGP Station (“Station”). He explained that she was questioned by the RGP and asked to sign a statement that she did not understand (the Complainant states that at that time, his Partner spoke neither English nor Spanish) and was then taken to the Gibraltar-Spain land border (“Border”) and asked to leave Gibraltar with their Son. The Complainant stated that they did not know the reason for the deportation

and that after that incident, because all her documents to enter Gibraltar were in order, she continued to cross through the Border without any further problems.

Circa 2015, the Complainant and his Partner divorced. By that time, the Complainant had taken up residency in Gibraltar whilst his Partner continued to reside in Spain with their Son. Around 2020/21, the Son (around ten years old at that time) moved to Gibraltar with the Complainant. The latter states that since then, his Partner visited them in Gibraltar when she had time off work and on occasions, took the Son into Spain with her for a week or two.

The substantive issue in this complaint arose in September 2021 when his Partner and their Son were stopped by Borders & Coastguards Agency (“BCA”) officers at the Border when crossing from Spain into Gibraltar. BCA checked his Partner’s passport and saw in their system that she had been deported from Gibraltar nine years ago. According to the Complainant she was refused entry into Gibraltar and upon further enquiry was advised by BCA to refer the matter to the RGP in order that the notice flagging up in BCA’s system could be removed.

The Complainant stated he went to the Station and spoke to an RGP Officer, explained the situation and left copies of his Partner’s passport and Spanish residency. According to the Complainant, an RGP Officer contacted him later that day to inform him that she had spoken to her superior and confirmed that there was nothing in the RGP’s records regarding his Partner. Furthermore, as the deportation had taken place nine years earlier (2012) there should no longer be any record of that incident and she should therefore be removed from the BCA’s system. The Complainant therefore emailed BCA on the 17th September 2021 to request the removal of the Notice from the system. On the 20th September 2021 BCA responded and stated that his Partner had been declared a prohibited immigrant in Gibraltar and it would be unlawful for BCA to grant leave to enter. They also advised that BCA does not declare persons as prohibited immigrants or deal with appeals and advised the Complainant to direct his request to the RGP who should have the notice of prohibited immigrant in their records. The Complainant claimed to have subsequently visited the Station a number of times and been informed that they had nothing in their system. He also pursued the matter via emails to the RGP on the 29th November and 2nd

December 2021 which received an immediate response from the RGP Commissioner's Personal Assistant informing him that the emails had been received and passed on to the relevant department and they would be contacting him.

Not having received any contact or information from the RGP by February 2022, the Complainant lodged his complaint with the Ombudsman.

Investigation

On the 18th February 2022, the Ombudsman made initial enquiries with the RGP. He requested information as to why they had not contacted or replied to the Complainant and asked whether the matter had been investigated. On the 22nd February 2022, an RGP Officer ("Officer 1") reverted stating that he would contact the Complainant but could not provide much of an update as the matter was currently being looked into. Officer 1 emailed the Complainant the following day (the Complainant provided a copy of that email to the Ombudsman) and suggested that he raise the matter with the Civil Status & Registration Office ("CSRO") and the Chief Secretary ("CS") being the person responsible for CSRO. Officer 1 added that the issue appeared to be a civil matter and they could not get involved. Officer 1 confirmed in his email to the Complainant that what the RGP have is a notice prohibiting his Partner from entering Gibraltar due to her arrest some time back.

The Ombudsman reverted to RGP Officer 1 and referred him to the contents of his email to the Complainant from which it appeared that neither BCA nor the RGP were able to rectify the issue of rescinding the Notice. In order to better understand the situation, the Ombudsman requested information as to what the Notice related to and enquired if it had an expiry date. The Ombudsman also enquired as to the RGP's reason for non-reply to the Complainant's emails of the 29th November and 2nd December 2021. Officer 1 responded that the Partner was arrested after having been found living illegally in Gibraltar and resulted in a Notice being issued prohibiting her from further entering Gibraltar. He confirmed that the Notice did not have an expiry date stipulated by law and any submissions for the Notice to be

rescinded should be made to HMGOG (Her Majesty's Government of Gibraltar). [Ombudsman Note: Officer 1 did not on this occasion specify as per reply to the Complainant, that the matter should be referred to CSRO and the Chief Secretary]. Regarding the non-reply, Officer 1 stated that he did not know why no reply was given and advised that the person who had previously been dealing with the matter was no longer with the RGP.

Following the information provided by the RGP to the Complainant in their 23rd February 2022 email, the Ombudsman contacted CSRO on the 28th February 2022 and requested if they could provide any information with respect to the Notice issued to the Partner. The Head of CSRO ("Head") responded on the 18th May 2022. In relation to the Notice, the Head had contacted the Gibraltar Court Service ("Court") and been informed that the Partner should seek legal advice in order to address the Notice matter. He stated that the primary issue that impeded the Partner from entering Gibraltar was the Notice, but that the fact that she was no longer married to the Complainant and a third country national had to be considered as she would require a visa to enter Gibraltar.

The Ombudsman wrote to the RGP Commissioner ("Commissioner") on the 19th May 2022 and requested the information below. A short summary of the Commissioner's response appears in bold underneath the information requested by the Ombudsman:

(i) Further explanation as to the reason/s for the RGP's non-reply to the Complainant's emails;

The matter was initially being dealt with by [RGP Officer 2] and the Commissioner apologised if he did not respond in a timely manner as he would have expected him to have done. The Commissioner stated that the matter was eventually dealt with by Officer 1 on the 22nd February 2022 who he understood had also been in contact with the Ombudsman's Office.

(ii) A copy of the 'prohibition notice' issued against the Complainant;

This is a police immigration notice with instructions and not a prohibition notice as the Ombudsman suggested. It is the Courts who issue the order to see someone out of Gibraltar should they be illegally here and the Commissioner suggested that it is they that we may wish to confer with.

(iii) Information on whether the RGP had provided the Complainant with the correct advice when referring him to contact CSRO and the Chief Secretary with respect to his Partner's issue instead of advising that the Partner should seek legal advice. [Ombudsman Note: The Ombudsman had updated the Commissioner with the information recently provided by CSRO].

The Commissioner stated that in order to apply for the removal of the notice, the CSRO and the Chief Secretary were the appropriate avenue to address the matter. It is our understanding that the Complainant and his Partner were already receiving legal advice from the Ombudsman's Office. [Ombudsman Note: In his correspondence with the Commissioner in July 2022, the Ombudsman clarified that his office investigates complaints of maladministration against public services and Government departments but cannot provide legal advice].

In following the Commissioner's advice, the Ombudsman made enquiries with the Courts and requested copies of any notices and/or orders in their records issued against the Partner. The Courts responded that they could find no record in their systems of any matter involving the Partner having come before the Court. The Ombudsman failed to understand how the Partner could have been deported if there was no order or notice registered in the Court and was informed (by the Court) that the order could have come from the Governor.

The Ombudsman contacted BCA for information on the content of the Notice flagging up on their system with respect to the Partner. BCA stated that the notice was an 'Immigration Notice as Prohibited Immigrant' issued by the RGP and triggered by Section 52(1)(i) of the Immigration, Asylum & Refugee Act ("Act"). For the notice to be rescinded, the Partner would have to apply to the Governor and request this under Section 52 (2) and 52 (3). For a copy of the notice, BCA referred the Ombudsman to obtain this from the RGP who had issued it.

In July 2022, the Ombudsman wrote to the Commissioner updating him on the information provided by the Court and BCA and requested that he provide a copy of the Notice and copies of any other pertinent information and or documentation, background or otherwise, in relation to the Partner's case. The response was provided by Officer 1. He explained that on the 16th March 2012, the RGP together with the Care Agency attended at [address provided by RGP] where the Complainant was arrested for 'Harbouring a Non-Gibraltarian without a valid permit or certificate – Contrary to Section 63 of the Immigration, Asylum & Refugee Act' and the Partner was arrested for 'Being a Non-Gibraltarian without a valid permit or certificate – Contrary to Section 62 of the Immigration, Asylum & Refugee Act'. Officer 1 stated that at the time there was a young child in the residence [Ombudsman Note: The Complainant confirmed to the Ombudsman that was his Son]. Subsequently whilst in RGP custody, the Complainant was offered a Police Caution for the above-mentioned offence which he accepted and signed on the 16th March 2012, the same day on which the Partner was offered a Police Caution for the above-mentioned offence which she also accepted and signed. According to Officer 1, once the Partner accepted the Police Caution, she voluntarily left Gibraltar and due to having committed the offence of 'Being a Non-Gibraltarian without a valid permit or certificate' was declared a 'Prohibited Immigrant' contrary to Section 52 (1)(i) of the Immigration Asylum & Refugee Act which states:

"The Principal Immigration Officer may declare to be a prohibited immigrant any non-Gibraltarian who seeks to enter, enters or has entered Gibraltar and at the time of his so seeking to enter, or of his entry, is or, if he has already entered, was –

(i) A person whose presence in or entry into Gibraltar is or, at the time of entry, was unlawful under the Act or any other law".

Officer 1 stated that the above explained why there is no 'Detention and Removal Order' issued by the Magistrates Court. The matter was dealt with by way of a Police Caution and did not go through the Courts.

Regarding the removal of the Prohibited Immigrant status, Officer 1 stated that the Immigration, Asylum & Refugee Act states in Section 52:

(2) Any person declared a prohibited immigrant under the provisions of this section may appeal to the Governor, who may confirm or cancel such declaration and whose decision shall be final.

(3) A prohibited immigrant shall not be entitled to enter or remain in Gibraltar while his appeal to the Governor under subsection (2) is being considered.

Conclusions

As a result of the Partner having been refused entry into Gibraltar through the Border by BCA in September 2021, the Complainant stated that he attended the RGP Station, as directed by BCA, with the purpose of having the notice flagging up with respect to his Partner in the BCA system removed.

The account provided by the Complainant to the Ombudsman of his visit to the Station in September 2021 was not substantiated but his subsequent enquiries to the different entities are documented.

The Complainant reverted to BCA via email in September 2021 and their prompt response continued to refer the Complainant to the RGP, the entity who should have the 'Notice of Prohibited Immigrant' in their records. The Complainant's attempts to obtain information from the RGP proved futile until he lodged his complaint with the Ombudsman. That resulted in Officer 1 providing a response to the Ombudsman on the 22nd February 2022 which stated that he would contact the Complainant but could not provide much of an update as the matter was currently being looked into and a response to the Complainant on the 23rd February 2022 which made no reference to the information provided to the Ombudsman but instead pointed the Complainant in the direction of the CSRO and the Chief Secretary. A situation where the Complainant was being sent from pillar to post as was the Ombudsman, in following the directions being given

The Ombudsman's investigation into this matter involved CSRO, the Courts, BCA and the RGP. It is clear that the RGP gave erroneous information to the Complainant in directing him to CSRO and the Chief Secretary in February 2022, and this further to not having responded to the Complainant's emails sent in November and December 2021. As such, it was only as a result of the Ombudsman's inquiry that Officer 1 in his detailed account of the 27th July 2022 finally provided the correct information required by the Complainant with regards to how the Notice could be rescinded which was by appealing to the Governor under Section 52 (2) and (3) of the Immigration, Asylum & Refugee Act.

Notwithstanding the fact that his Partner would have to seek legal advice in order to make an appeal (as advised by the Head of CSRO in May 2022 after having discussed the matter with the Courts) the RGP, the entity that issued the Notice, should have furnished the Complainant with the pertinent information he requested in November 2021 which only materialised due to the Ombudsman's investigation.

The Ombudsman sustains this complaint against the RGP.

Classification

Complaint - Non-Reply from the RGP to the Complainant's numerous enquiries for information on how his Partner could have a prohibited immigrant notice rescinded – Sustained

REPORT ON CASE NO 1259

Complaint against the Gibraltar Health Authority (“GHA”)

(i) Medical issue due to be resolved in July 2021 was not concluded until December 2021 due to the lack of medical equipment;

(ii) Non-Replies from GHA Complaints Office (“CO”)

Complaint

The Complainant was aggrieved because a medical issue due to be resolved in July 2021 was not concluded until the 10th December 2021 due to the lack of medical equipment at the GHA. He was further aggrieved because he had not received replies from the CO further to having lodged a complaint.

Background *[Ombudsman Note: The background is mainly based on the version of events provided by the Complainant, including supporting documentation, at the time of lodging the Complaint with the Ombudsman].*

In March and April 2021, the Complainant had tests carried out at the request of a GHA Primary Care Centre (“PCC”) General Practitioner (“GP”) which resulted in an urgent referral to the Urology Department (“Urology”). On the 23rd June 2021 the Complainant saw the urologist (“Urologist 1”) who informed him that he had a stone, almost 20mm in length, impacted in the left side ureter and that was causing inflammation of his left kidney and would require surgery for removal. He was also told that he had two smaller stones in the kidney and if possible, those would be removed during the same procedure or if not, at a future date. On the 23rd July 2021 the Complainant attended the Day Surgery Unit for

the scheduled procedure to be undertaken under general anaesthetic but stated that the outcome was unsuccessful because Urologist 1 only had available a semi rigid ureteroscope for the procedure when a flexible ureteroscope was required. According to the Complainant, during that operation, Urologist 1 managed to insert a stent in the ureter (the insertion of the ureteroscope could result in temporary swelling inside the ureter and this ensures the kidney drains urine well).

About a week later, Urologist 1 informed the Complainant that he would be meeting GHA management to try to clarify anticipated timings of any repairs to flexible ureteroscopes and would be able to provide him with feedback once that was known. The Complainant could then decide whether he was comfortable to wait for the equipment to be available locally for the stones to be removed, or be referred to a UK or Spanish tertiary referral centre (“TRC”) for completion of the procedure. Urologist 1 further informed the Complainant that the flexible ureteroscope had been out of commission since May 2021 (over two months), pending a management decision on whether to carry out repairs or replacement.

On the 4th August 2021, Urologist 1 emailed the Complainant to inform him that he had met with GHA management and that the flexible ureteroscopes would be repaired and single use flexible ureteroscopes would be acquired. Urologist 1 hoped that single use items would be available in the coming weeks and added that the fact that the Complainant had a stent in place would mean they wanted to ‘*...get him done at the earliest opportunity*’. Urologist 1 did not think the Complainant needed to be referred to a TRC.

On the 25th August 2021, not having had any contact from the GHA, the Complainant contacted Urologist 1. According to the Complainant, Urologist 1 informed him that the reusable flexible ureteroscopes had been assessed and commissioned for repair with a return date pending and that ‘Procurement’ were liaising with United Kingdom (“UK”) representatives for the purchase of single use flexible ureteroscope system. Although imminent, an order had not yet been submitted and Urologist 1 did not know when the items would arrive in Gibraltar. He advised that the option of waiting for definitive

treatment at the GHA remained, hopefully in September 2021, but was dependent on the arrival of the equipment. The Complainant preferred the procedure to be carried out at the GHA but was concerned about the delay.

On the 26th August 2021 the Complainant decided to lodge a complaint against the GHA and that same day, as well as the following, left numerous messages on the CO Manager's ("Manager") answering machine requesting a meeting to discuss his complaint and also emailed him. The Manager did not revert and so the Complainant sent a further email on the 6th September. The Manager replied and advised that he was on leave until the 13th September and that he would notify him of the meeting date when he returned to work. The date set for the meeting was the 21st September.

In the meantime, on the 9th and 16th September 2021, the Complainant contacted Urologist 1 for an update and on the 17th September received a reply from another urologist ("Urologist 2"). He reiterated the information provided by Urologist 1 and added that he believed the equipment had been ordered. He advised that the matter was with the procurement process which was out of their hands and in the 'Gibraltar system' and added that in the UK they would expect the process to take no more than a few days once the equipment had been paid for.

The Complainant met with the Manager on the 21st September 2021 and submitted his written complaint in which he highlighted that the delay on the part of the GHA in acquiring the necessary equipment had caused him great distress. He felt that his condition had worsened as he was now suffering from a urinary tract infection, and another surgical intervention to remove a pilonidal sinus had had to be set back. As such, the Complainant in his complaint letter, included a request for the GHA to make arrangements for the procedure to be undertaken in a TRC in Spain with the proviso that should the GHA receive the necessary equipment before, that it be carried out in Gibraltar.

The Manager emailed the Complainant on the 24th September to inform him that he had spoken with Urology and they had confirmed that the equipment had been procured and they were waiting for confirmation of delivery. A week later, the Complainant emailed the Manager, on this occasion to request a referral to a TRC in the UK, as he understood from

the Manager that the GHA were not happy to send him to a TRC in Spain due to health and safety reasons. The Manager responded the following day and advised that he had referred the Complainant's request to Urology for their comments and action and he would revert as soon as he had information.

On the 12th October, the Complainant emailed the Manager to point out that he had neither received an acknowledgement to his complaint nor been updated on the investigation. The Complainant referred the Manager to the information provided in the GHA website which stated that complainants would receive an acknowledgement within five working days of raising a formal complaint and reply within the stipulated twenty five days, or seek an extension if required.

On the 26th October, the Complainant, not having received a reply from the Manager, emailed the latter and informed him he would take the matter up with the Medical Director.

According to the Complainant, on the 27th October 2021, the Manager responded and referred the Complainant to their various contacts which he described as their informal acknowledgement of his complaint. The Manager noted that the Complainant was not fully satisfied and he would therefore write to acknowledge receipt. In that same email, the Manager requested an extension period to carry out the investigation.

The Complainant emailed the Manager on the 12th and 26th November and the 6th and 16th December 2021 for an update on his complaint but received no response.

The Complainant lodged his complaints with the Ombudsman on the 13th January 2022.

Investigation

Complaint (ii)

The Ombudsman presented the complaint to the Manager on the 21st January 2022. No response was received and the matter was chased on the 7th March 2022. The Manager responded the following day and stated that they deeply regretted the fact that the investigation into the complaint had not been completed due to '*...the unresolved manning situation in the PALS ("Patients Advisory Liaison Service") office*'. According to the Manager, the current situation was that he was running two departments (PALS and Complaints Office) on his own and did not have the resources to address all complaints and enquiries received, in a timely manner and in keeping with their policy. The Manager stated that once normality was resumed with the recruitment and training of two PALS officers, they would be able to address the backlog of complaints. In the meantime, he stated that he could only apologise to GHA service users for the delay in responding to complaints within a reasonable timeframe. The Manager provided a copy of the email he had sent to the Complainant on the 27th October 2021 in which he apologised for not having reverted earlier and explained that although he had chased the matter with the GHA Theatre Team there was still no reasonable resolution to the matter. In that same letter, the Manager requested an extension of time in which to carry out the investigation.

Regarding the Complainant alleging that he had not received an acknowledgement to his letter of complaint, the Manager referred him to their meeting on the 21st September 2021 and the fact that he had presented the letter in person by hand on that occasion and the Manager had accepted it as well as discussed its contents with him. The Manager stated that they had agreed that he (the Manager) would contact the Urology and Theatre Team to ascertain when the equipment would arrive and the reason for the delay and revert as soon as he had the information, as well as arranging a GP appointment for the Complainant on that same day as he was worried that his condition had worsened and could be suffering from a urinary tract infection. The Manager advised that they had discussed that although the investigation could take longer than expected, they would reach a conclusion to his request for information at the very earliest.

The Manager stated that they had exchanged email correspondence on the 24th September and 1st October 2021 and had at least two telephone conversations during that time regarding putting the Complainant's request for a referral to a TRC either in Spain or UK. The Manager stated that request was put to Urology as that had to be proposed by the urology consultant to the Tertiary Referral Board ("TRB"). The Manager was aware that Urologist 1 had written to the Complainant on the 11th October 2021 and advised him that a referral to a TRC was reasonable but he would not be able to occupy a slot on the GHA operation list at the same time and noted that Urologist 1 had sent this information to the Medical Director for his advice.

The Ombudsman had in September 2021 met the GHA's Medical Director (Ag) ("MD") due to the increase in complaints made to the Ombudsman against PALS/CO, for lack of responses and delays in completing investigations. At said meeting it was identified that out of a complement of three members of staff in PALS/CO, two had permanently not been available due to long term sickness and the situation had been further exacerbated when the Manager took annual leave and no cover was arranged during those periods. Furthermore, there appeared to be no line management for PALS/CO so any follow up action, supervision, monitoring or indeed disciplinary action could not be pursued; PALS/CO had neither steer nor direction. The MD explained that the recruitment procedure had been delayed but that was now at an advanced stage awaiting ministerial approval.

In April 2022, the Ombudsman contacted the GHA's Director General ("DG") to enquire about the staffing levels in PALS/CO and was informed that two persons had been identified by the GHA to fill the staff complement. At a meeting between the DG and the Ombudsman in June 2022 the former advised that since May 2022, PALS/CO had been operating with a full staff complement.

Regarding the delays of PALS/CO in responding to service users, the DG stated that the departure of the Clinical Governance team and the lack of structure in the interim, coupled with PALS/CO's two staff members not being replaced until May 2022, had led to the inordinate delays.

In answer to questions put to the Manager by the Ombudsman as to when the understaffing levels had occurred, the Manager responded that this had been during the period December 2019 to May 2022 and that the reason was long term staff sickness which left the Manager as the only staff member.

Regarding enquiries on the current backlog of complaints at PALS/CO, the Manager responded that they were currently working with fourteen complaints all at the investigation stage.

On the 7th June 2022, the Manager provided the Complainant with the findings of his investigation with regards to the original complaint lodged in September 2021 and apologised for the delay.

He explained that they had discussed his concerns with the GHA's Theatre Manager ("TM") who shared the Complainant's frustration and had stated that the delay *'...seemed to stem from Brexit issues, as Madrid (Spain) was delaying procurement orders because of health inspections'*. According to the Manager, the GHA provider had already made alternative arrangements with the courier service to avoid future delays.

The Manager concluded the matter by apologizing for not being able to provide more definitive information and hoped that the explanation provided had fully addressed his concerns. If he remained unhappy with the outcome of the investigation, the Manager advised that he could approach the Ombudsman

By June 2022, the Ombudsman had already begun his investigation and had requested a copy of PALS/CO's file with respect to the complaint which was duly provided.

Complaint (i)

As a next step in the investigation, the substantive complaint, the Ombudsman contacted the GHA's Facilities Manager to establish a timeline with respect to the equipment; i.e. when it was ordered, follow up/s and delivery but was advised that the complaint did not fall within his remit and referred the Ombudsman to the GHA's Head of Procurement (Ag) and to the Unit General Manager (Ag). The Ombudsman discussed the matter with the latter who pointed the Ombudsman to the TM and the Clinical Nurse Manager ("CNM"). The Ombudsman referred the matter to the latter on the 21st June 2022 and received details on the 14th July 2022.

The CNM provided a timeline as follows:

Date	Event
02.08.21	Flexible ureteroscopies sent for repairs due to damage.
02.09.21	Delay in response from manufacturers regarding repair costs and service maintenance contract price. Decision made to utilise single use scope in the interim, whilst new reusable equipment arrives.
	Further enquiry undertaken with the company representatives to ensure compatibility of single use scopes with the current 'Operating Theatre Stack System' (TV and computer visual aid for surgery).
21.09.21	Once compatibility confirmed, single use scopes were ordered as 'Urgently Required'.

27.11.21 Single use items arrived at GHA's Operating Theatre. CNM stated that on average there is a lead time of six to eight weeks for items to be delivered from supplier and added that delays may have been exacerbated due to the inspection of health related products in Madrid. **[Ombudsman Note: Subsequent statement from the Urology Department to the Ombudsman stated that the equipment arrived on the 18th November 2021].**

10.12.21 The patient underwent surgical intervention [Ombudsman Note: This was the third intervention].

The above information raised further queries from the Ombudsman and he reverted to the CNM who on the 15th July 2022 advised that he would refer these to the TM.

Theatre Lead 1 reverted on the 12th August 2022 and advised that they currently only had one flexible ureteroscope to cover for all clinics and surgical operations. He added that their only urology camera had malfunctioned and been sent away for repairs and stated that there was no replacement in the meantime. He confirmed that all new imaging equipment for Urology had arrived weeks ago but could not be put into use until representatives of Company 2 [company name supplied] commissioned this. The team were expected to arrive in Gibraltar from the UK on the 16th August 2022.

The Ombudsman was concerned at the information provided by the TM with regards to the current state of affairs of urology equipment and made further enquiries on this as well as continuing to pursue details to establish the delays experienced by the Complainant in the latter part of 2021.

Theatre Lead 1's responses were received on the 5th September 2022. For ease of reference, the relevant Ombudsman's questions (O) and the Theatre Lead 1's (TL1) responses are set out below:

O: Confirmation that because there was no urology camera currently available, clinics and surgical operations which required the use of the camera had been cancelled.

TL1: We have just received a camera on loan basis until the other one is repaired (date confirmed by the Urology Department as being 2nd September 2022).

O: Confirmation that the equipment required for the Complainant's procedure had been unavailable since May 2021.

TL1: The above is confirmed, however, single use ureteroscopes were purchased during the interim period and are still on single use ones today.

O: Who took the decision for the repairs to ureteroscopes and why did it take three months?

TL1: The equipment was urgently sent for repair by TL1 but nothing was done as the maintenance purchase agreement was never settled.

O: Have the flexible ureteroscopes finally been repaired?

TL1: They have not been repaired but the GHA has bought three new ones which are awaiting to be commissioned.

O: Despite the single scopes order being urgently required, these were not delivered until nine and a half weeks after placing the order. Please confirm that the supplier did not comply with the urgency request.

TL1: The order took long because the purchase order was for more than £10,000- and took a while longer to be signed off.

O: Please provide documentation to substantiate that delays experienced on this occasion were due to inspections in Madrid (as per information provided by the Manager to the Complainant).

TL1: To my knowledge, the inspection in Madrid was not related to this order.

O: Who is responsible for ordering equipment required for procedures at the Operating Theatre and is the same person responsible for tracking and ensuring orders are delivered.

TL1: The TM is responsible for ordering and tracking them. They now have to ensure that all equipment has arrived in Gibraltar before a surgical date is given to a patient. The reason is that loaned equipment has been lost during transit three times during the past month due to changes in courier service, etc., or the official paperwork was wrongly completed in the UK and sent back to UK from Madrid. Any loaned equipment has to land in Madrid.

In parallel to the enquiries to the TM, the Ombudsman had on the 11th July 2022 also requested information from Urology via email. Urologists 1 & 2's report was received on the 26th September 2022, further to a number of chasers.

Urology stated that the Complainant's clinical background was that he had been diagnosed with a 2cm obstructing left proximal ureteric stone, following original presentation with visible hematuria to his GP in April 2021. The Complainant was a non-insulin dependent diabetic. The CT showed the abovementioned obstruction with associated hydronephrosis and 8mm stones in the lower pole of the left kidney.

The Urologists stated that the Complainant had been counselled in clinic on the 17th June 2021 regarding the implications of his obstructing stones. Although asymptomatic at the time it was unclear how long the stone had been present and he was made aware that given its large size, he was at risk of ureteric strictures and if that was encountered, further interventions would well be required. The Complainant was also made aware that the non-obstructing left lower pole renal stones may not necessarily be treated in the first procedure and further interventions for those could be considered or alternatively, observation alone.

The first elective operation was performed on the 23rd July 2021. Although the stone was visualized with the semi-rigid ureteroscope, they were unable to gain an adequate view to initiate safe lasering of the stone. No flexible ureteroscopes were available and a ureteric stent was inserted to address the obstruction from the ureteric stone, facilitate drainage and facilitate a further attempt at ureteroscopy. According to the Urologists, there was adequate equipment available for the initial aim of the surgery, which was to decompress the obstructed kidney and insert a stent. If a flexible ureteroscope had been available, that may have allowed an initial attempt at lasering but even then, in an unstented primary ureteroscopy with a large stone, further procedures may still have been necessary to complete the procedure.

The Urologists stated that the decision to operate on the Complainant, aware of the absence of the flexible ureteroscope, would not have been made if it was not felt to have been clinically safe and appropriate to proceed with the semi-rigid ureteroscope, the standard instrument for managing the majority of ureteric stone cases.

Regarding the Ombudsman's query as to their team's involvement with regards requesting/pursuing the pertinent equipment, the Urologists provided background information. They stated that the specialist equipment, i.e. flexible ureteroscopes, could either be a standard reusable instrument or disposable. The GHA had three reusable ones but all three were 'broken' since the 29th May 2021. The process for resolving the equipment issue was slow because there was no 'service contract' in place and senior management had concerns regarding the predicted cost of repairs. The Urologists stated that proposals for a managed service agreement which would address the maintenance repair and renewal of surgical equipment was an ongoing project at the time but was not completed until July 2022.

The Urologists stated that on the 9th June 2021, the Medical Director, Medical Director's Office, Clinical Nurse Manager for Theatres, Surgical Lead and Theatre Coordinators were emailed to highlight implications of the equipment failures on the urological stone service. At the time, there were 21 outstanding renal stone cases and contingency options were

highlighted, including paying for repairs, purchasing single use items and external referral of cases if critical requirement. According to the Urologists, no apparent action was taken by the GHA's management team.

The Complainant had his operation on the 23rd July 2021 and as a result of the lack of a flexible ureteroscope in his case, a clinical incident form was completed (Datix Form on 26th July 2021). The Urologists sent an email to the Deputy Medical Director that same day (Medical Director was away at that time), the Medical Director's Office and Theatre Coordinators to highlight the ongoing implications of still not having a plan for replacing broken flexible ureteroscopes. The Ombudsman was provided with a copy of the email which provided background information on the three reusable flexible ureteroscopes purchased for Urology in 2019/2020. The Urologists stated that no maintenance or service contract was established at the time. Since the 29th May 2021 they had no functioning flexible ureteroscope as the third flexible ureteroscope broke down 'intra operatively' and the other two had broken in the six weeks preceding. They were sent to Company 2 in June 2021 for assessment and potential repair but anticipating high cost of repair per scope, there has been a reluctance to have a definitive decision on whether the repair should be commissioned. The Urologists pointed out that there was always the potential of equipment fatigue with those delicate instruments and the reason why most units have a service agreement was to avoid unexpected high repair costs. The Urologists stated that the absence of the equipment has had significant implications to them being able to offer a safe and effective stone service at the GHA. Although stones in the ureter are usually accessible to laser fragmentation with rigid ureteroscopes, there is always the risk of stone migration back into the kidney. Consequently, the Urologists stated that there was an ethical issue about embarking on upper ureteric stone surgery with the knowledge that they could not complete the case if the stone migrated and highlighted that previously that would not have been an issue. They stated that they had been achieving good stone clearance rates with a single procedure prior to the equipment crisis. The Urologists stated that they had submitted a further DATIX (incident report) on the 23rd July 2021 but advised that additional cases had occurred on the 29/5/21, 25/6/21 and 9/7/21. The Urologists added that they had risk stratified all their current patients and those that had potential time critical issues with their stones had been offered:

- (i) The option of referral elsewhere;
- (ii) the removal of stents if not currently essential: or
- (iii) accepting a wait for flexible ureteroscopes to become available once more.

The Urologists pointed out that if the equipment continued to be unavailable at the GHA, then all those patients would need to be referred to TRC with all the anticipated additional costs involved and effects on patient continuity and potential variations in clinical care. In that email, the Urologists made recommendations regarding the ureteroscopes and advocated the purchase of 10 single use ones. The Urologists advised that they had the necessary theatre capacity, an effective theatre team and surgeons to undertake the cases. They just needed equipment that works and is maintained to treat the outstanding cases.

As a result, a meeting was scheduled for the 3rd August 2021 to discuss steps to resolve the issue. The Complainant emailed Urology on the 28th July 2021 and was advised that he would be updated following the aforementioned meeting.

At the meeting, an action plan was agreed; to repair the flexible ureteroscopes and also purchase some single use flexible ureteroscopes and that was going to be undertaken by theatre leads liaising with the procurement department. This was conveyed to the Complainant by email on the 4th August 2021 where he was advised that it was hoped that the single use items would be available in coming weeks and therefore was not a clinical indication to refer externally at that time. Urology made direct enquiries with the industry to establish what single use flexible ureteroscopes would be available to use in Gibraltar and introductory contact between “Company 1” [name of company supplied] regional sales representatives and Theatre Lead 1 was made on the 26th August 2021 to take forward the purchase of single use flexible ureteroscopes. That same day, Urology responded to an email from the Complainant and informed him that they were unable to offer a firm date but hoped that would be in September 2021, once the new equipment arrived.

The Complainant was reassured that the stents could potentially stay in place for twelve months and the guidance they had given to him previously about four to six weeks being the preferred timescale was the optimal situation that would usually have been aimed for both in the NHS practice and the GHA when there was no equipment issues. The option of being referred externally was also offered to the Complainant. On the 16th September 2021, Theatre Lead 2 confirmed with Company 1 that in order to take forward a purchase order, they had to register with 'Central Procurement' ("Procurement") in line with HM's Government of Gibraltar purchasing processes [Ombudsman Note: The Gibraltar Government website states that: *The Procurement Office is an independent office of His Majesty's Government of Gibraltar ("HMGOG") reporting directly to the Financial Secretary. It broadly focuses on improving the efficiency and effectiveness of procurement practices of all other government departments and agencies* – Accessed Date: 30-11-22]. On the 21st September 2021, Company 1 advised that before a purchase order could be submitted, a Lithovue (system name) placement agreement was required to send out the necessary monitor for the single use scopes. Three days later, Procurement advised that they were trying to source the single use scopes from local third party suppliers but Urology reverted that would not include the necessary monitor which Company 1 was willing to provide for free, if they agreed to a minimum purchase order. Procurement noted that they were unable to order directly from Company 1 because they were not on the preferred supplier list on the HMGOG's supplier directory. According to Urology, the Head of Procurement was made aware of the situation and continued to suggest the purchase of the items through local suppliers whilst they continued to reiterate the monitor issue. On the 27th September 2021, Procurement requested Company 1's contact details in order that they would register as a preferred supplier. On the 4th October 2021, GHA contacted Procurement to inform them of continued patient related complaints that the lack of equipment was having. Procurement advised that Company 1 had not completed registration and they remained unable to place a purchase order. The following day, Procurement were advised that price quotes had been sent to GHA management and they continued to await the registration process to be completed. On the 11th October 2021 (approximately one month after Company 1 was initially asked to register by Theatre Lead 2) Company 1 confirmed completion of the registration process and advised that Procurement just needed to submit an order which Urology confirmed occurred.

Urology stated that on the 26th October 2021, discussions regarding the 'Managed Equipment Servicing Agreement' with Company 2 [name of company supplied] were undertaken and there was an agreement to include the damaged ureteroscopes in the agreement once completed. Theatre Lead 1 was advised to hold off proceeding with repairs at that time although no action had been taken since the 3rd August 2021 meeting. On the 8th November 2021, the Complainant emailed the Medical Director (Ag) highlighting his frustration at the length of time elapsed since his original procedure. The email was forwarded to Urology on the 15th November 2021 and responded to that same day. The Complainant was seen ad-hoc that same day in Urology and advised of the ongoing delay from the original management solution meeting on the 3rd August 2021 to date due to the '*...time consuming, challenging and inflexible procurement process in Gibraltar*'. It was agreed to list him on the 19th November 2021 either for a stent exchange or an attempt at laser fragmentation if a flexible ureteroscope had arrived. Confirmation of the equipment's arrival in theatres was made on the 18th November 2021.

Urology stated that on the 19th November 2021, the Complainant underwent the second operation which was challenging as his stent had become encrusted. Despite laser fragmenting the majority of the obstructing ureteric stone using the flexible ureteroscope, it was not possible to remove the existing stent. After a two hour operation, a second stent was inserted alongside, and plans made for a third procedure on the 10th December 2021 to try and remove the original stent; this was undertaken successfully and during that procedure, residual renal stones laser fragmented. The Complainant was temporarily re-stented and this was finally removed during the fourth procedure on the 28th January 2022. Urology stated that the Complainant had had a difficult time and that had been acknowledged and they had previously apologised to him. They highlighted that they were both experienced endourological stone surgeons but noted that '*...his ureteric stone was an extremely difficult stone to deal with and required technically challenging stone surgery*'. Notwithstanding, they advised that the Complainant had a successful outcome from his surgery and remained stone free, symptom free and with normal renal function; an excellent outcome.

Regarding the waiting time he had to endure, the Urologists stated that although not ideal, it would not be unusual to see similar waiting times in the NHS. In respect of the fact that his patient journey involved several endourology procedures, the Urologists stated that was not unusual for a complex stone patient.

The Ombudsman had requested information from Urology on how many patients were affected by the lack of equipment during the period May to November 2021. They advised that approximately thirty patients of differing clinical priorities were involved and highlighted that generally, those patients were persons with relatively few symptoms who could wait without problems.

On the issue of a proposed referral to a TRC and the Complainant's request for that to happen due to the inordinate waiting time, the Ombudsman requested information from the Urologists. The latter explained that Covid-19 remained an ongoing global pandemic during the period and although personal restrictions were being eased, service disruption continued in the UK NHS and preadmission household isolation remained a requirement which the Complainant was reluctant to consider. Onward referral for a patient with a ureteric stone with a stent in situ would likely have had a low priority on any NHS waiting list and unfortunately, the wait would have been in the order of several weeks to many months. The GHA management team had highlighted concerns regarding governance processes and patient safety concerns for clinical care in Spanish healthcare institutions and there was an organisational policy to try and provide elective services in Gibraltar or in UK centres of excellence, whenever possible. The Urologists advised that the Complainant was kept informed and advised of the anticipated timings, provided in good faith at the time, and based on the information provided to them but noted that as is clearly evident from the timeline, the procurement process is unduly time consuming, not responsive or robust and lies outside the control of clinicians delivering patient care. The Urologists added that additionally, the lack of maintenance contracts for critical but delicate and expensive surgical equipment meant that there was not a robust system in place for coordinating repairs. The unexpected high costs presented budgetary concerns and an inertia in the commissioning of the repairs. According to the Urologists, that had

largely been addressed by the recently signed managed service equipment agreement with Company 2 in July 2022, but occurred twelve months too late for the Complainant.

Conclusions

Complaint (i) - Medical issue due to be resolved in July 2021 was not concluded until December 2021 due to the lack of medical equipment - Sustained

It is clear from the detailed information submitted by the GHA for the purpose of this investigation that the first failure which led to the lack of medical equipment, i.e. the three flexible ureteroscopes purchased by the GHA in 2019/2020, was not having a maintenance agreement in place which made repair costs very high. The three flexible ureteroscopes broke during a six week period and since the 29th May 2021, there was no functioning flexible ureteroscope until single use ones were received on the 18th November 2021; approximately a six month period during which the GHA did not have all the necessary equipment to undertake upper ureteric stone surgery (as stated by the Urology Department in the Investigation Section of this report). Under the circumstances, despite the Urology Team stating that they had been achieving '*...good stone clearance rates with a single procedure prior to the equipment crisis*' the lack of equipment must have undoubtedly resulted in a number of patients with urgent needs having to be referred to TRC's with the additional costs that entailed. The three flexible ureteroscopes were finally not repaired due to the high costs involved in doing so. Instead, three new ones were purchased which on the 5th September 2022 (TL1's responses to the Ombudsman's queries refers) one year and four months after the last one broke down, were still waiting to be commissioned. According to Theatre Lead 1 there is now a maintenance agreement in place with respect to the newly purchased ones.

The second failure was the lengthy period of time taken for management to make the decision on whether to undertake repairs to the three flexible uretheroscopes or not. From the findings of the investigation, it is noted that no urgency appeared to have been channelled by senior management to resolve the lack of equipment issue and that it was only at

the behest of Urology who suggested single use flexible uretheroscopes that the exercise to pursue these was set in motion.

The third failure was the period of time which it took to purchase the equipment, in part also due to the rigid local procurement system in place which requires suppliers to register in the Gibraltar Government's Preferred Supplier List. Further to the 4th August 2021 in which the decision to purchase single use uretheroscopes was made, a meeting was set up between Theatre Lead 2 and Company 1 on the 26th August 2021. On the 16th September 2021, Company 1 was informed that they had to register with Procurement and it took approximately one month for that to materialise. In the interim, the Ombudsman's investigation has found that despite the GHA having appointed the Theatre Leads as the parties to take forward the discussions and agreement with the specialised company who would be able to provide the pertinent equipment and the required monitor, Procurement intervened with the objective of sourcing the single use scopes from a local third party supplier but was unsuccessful for the reasons set out in the Investigation Section of this report. The Ombudsman is concerned that there was no offer from Procurement to assist the GHA to provide an alternative method for purchase of the urgent equipment required in this case, especially considering that costs would be incurred from the lack of equipment, due to referral of patients to TRCs as a result. In parallel, the pertinent company could have continued the registration process. The Ombudsman suggests that GHA Senior Management, Urology and Procurement discuss how to best tackle similar situations in future.

The Urologists reference to NHS wait time is not relevant in the context of this report as the reason for the delay was the lack of equipment and not a long waiting list due to NHS' high number of service users.

The reality for the Complainant is that he had to undergo a total of four procedures for the fragmentation and removal of stones, and insertion and removal of stents. Between July and November 2021 he suffered unnecessary worry and anxiety due to the necessary equipment required for his procedure to be undertaken not being locally available and the stent put in place in July 2021 becoming encrusted after nearly sixteen weeks in place. It could have well been the case that regardless of the equipment being available, the outcome would have been the same but in view of the facts presented, the delay in concluding the procedure was due to the lack of equipment and the chain of events that led to it.

Regarding the Complainant's request for a referral to a TRC, the Urology Department's response is clear with regards the GHA's position in not referring him to a TRC. Urology stated that the Complainant's situation, a patient with a ureteric stone with a stent in situ would likely have had a low priority on any NHS waiting list and the wait would have been in the order of several weeks to many months. As to referral to a TRC in Spain, the Ombudsman notes that the GHA management team had highlighted concerns regarding governance processes and patient safety concerns for clinical care in Spanish healthcare institutions. The aforementioned position compounded by the Complainant's initial preference (in the earlier months) to have the surgery locally, resulted in no referral being made.

Complaint (ii) - Non-Replies from GHA Complaints Office ("CO") - Sustained

The departure of the Clinical Governance team and the lack of structure in the interim, coupled with PALS/CO's two staff members not being replaced since leaving in May 2019 until May 2022, had led to the inordinate delays in complaints being investigated and concluded.

The Complainant lodged his complaint with the CO on the 21st September 2021 and that was acknowledged by the Manager at their in-person meeting. On the 27th October 2021, prompted by the Complainant, the Manager emailed him with a summary of events up to that date, acknowledged receipt of his complaint and requested an extension of time for the investigation into the complaint. The Manager did not provide the findings of his investigation to the Complainant until the 7th June 2022 and in any event then provided information that had no bearing on the Ombudsman's findings and appears to have been a convenient, effortless and trending reason to provide without having undertaken an appropriate investigation.

The Ombudsman is critical of the fact that the CO was left to be manned by one person for a two and a half year period.

Classification

Complaint (i) - Medical issue due to be resolved in July 2021 was not concluded until December 2021 due to the lack of medical equipment - Sustained

Complaint (ii) - Non-Replies from GHA Complaints Office ("CO") - Sustained

UPDATE

The Head (“Head”) of the GHA’s Clinical Governance team (“CGT”), provided an update to the Ombudsman further to reading this report.

In the first instance, she apologised for the problems that had occurred in PALS before May 2022.

She then explained that since May 2022, a new head of clinical governance was in post and there had been a review of complaints processes and structure. Draft policy had been written and new processes implemented for all patients, staff and visitors. She stated that the GCT met weekly to review complaints and discuss and address concerns. Clinical complaints are reviewed at the weekly ‘Review of Harm’ group, and action plans discussed with the clinicians involved to agree new processes for improvements where necessary. Monthly executive meetings highlighting the work completed by the clinical governance teams and GHA QIP (Quality Improvement Plan) are also held. Feedback is given to all complainants and any serious issues escalated to the Director General via the Head.

The Head informed the Ombudsman that feedback tools and patient leaflets are now available for staff, patients and visitors to give regular feedback to the Head, in order to enable proactive quality improvement projects to be implemented where necessary, once approved by the Quality, Safety & Risk Review Group.

PALS office is now located in the reception area of St. Bernard’s Hospital with a staff member available all day between Monday to Friday to listen to patients and visitors concerns.

The team now consists of the Head, one complaints manager, two PALS officers and one PALS support officer.

REPORT ON CASE NO 1261

Complaint against the Civil Status and Registration Office (“CSRO”) in relation to non-reply to letters and a waiting period of nine years for his application for exemption from immigration requirements (“Exemption”) application to be processed.

Complaint

The Complainant was aggrieved because he had been waiting nine years for a decision on his application for Exemption. A successful application would allow him to subsequently apply for British nationality.

Background

[Ombudsman Note]: *The background is mainly based on the version of events provided by the Complainant, including supporting documentation, at the time of lodging the complaint with the Ombudsman.*

The Complainant explained that he had first applied for Exemption in 2012 and could not comprehend why his application was taking such an inordinate amount of time to be approved, particularly since he had knowledge of other applicants of similar background who had successfully applied after he had.

The Complainant owned property in Gibraltar and also had business interests in the jurisdiction with no arrears owing to Government or other matters outstanding. He could therefore not understand or identify any justifiable reason for the delay. As a result, the Complainant proceeded to file his complaint with the office of the Ombudsman in 2022.

Investigation

The Ombudsman (to his dismay) noted how the Complainant had initially applied for Exemption in March 2012. In April of that year he received acknowledgement of the application and a lengthy accompanying letter setting out the process in detail. However, from the date of that letter to some almost ten years later, the Complainant had been kept waiting and a decision on his application had been consistently deferred.

The Ombudsman wrote to CSRO in February 2022 setting out the outline of the complainant. Explanations for the non-reply to the Complainant's requests for updates and more significantly, for the **incredible** delay in determining the application were sought.

CSRO replied to the Office of the Ombudsman soon afterwards.

In their reply, CSRO stated that they had answered all the Complainant's correspondence in their possession. The Ombudsman was able to confirm that this was indeed the case. The Complainant's application had been deferred six times and on each occasion, he had also been informed by CSRO in writing.

At the last deferral, in September 2021, CSRO wrote to the Complainant stating that *"... your application has received due consideration and has been deferred. A reason for this deferral has been procured and will be conveyed to you as soon as this has been communicated to this office.... I can confirm that your application, along with other outstanding applications, was considered by the Hon Minister for Personal Status as indicated by his public statement. A decision was made on each case and the decision was made to defer your application for further consideration in our next submission.... I can confirm that we will prior to re-submission contact you in order to review and update your application."*

The Ombudsman learned that the reply to the Complainant which remained outstanding was an email that the Complainant had sent No 6 Convent Place in 2021, seeking an explanation for the delay. A holding reply had been received but as far as the Ombudsman could ascertain, no substantive reply followed.

The Ombudsman continued to chase CSRO periodically seeking an explanation for the deferrals. Our numerous exchanges of email correspondence concluded with CSRO informing the Ombudsman that as of August 2022, they had not been given reasons for said deferrals from the relevant higher office.

Conclusions

In conclusion, the Ombudsman could only sympathise with the Complainant's position.

The issue of Exemption deferrals is one over which numerous Public Services Ombudsmen have reported, commented and expressed grave concerns over the years to successive H.M Government Chief Secretaries, clearly, with little effect.

One can only reiterate that in a modern, democratic and administratively transparent society, it is totally unacceptable how a citizen can be so consistently ignored over such a fundamental and important socio-economic issue, affecting applicants' daily lives. The lack of any explanation as to how a deferred applicant should act, or the steps they could take in order to improve their chances of securing a successful application, is frankly, ignoring the citizen and regarded as a violation of their human rights.

Alternatively, it could also be seen as a measure of good administrative practice, for the authorities to deny applications to those who do not meet the criteria. An outright "*no*" (with reasons and information on any accompanying rights of appeal where applicable), would be infinitely more desirable than "*perpetually maybe*".

Classification

(1) Non reply to letters sent to CSRO- **Not sustained**

(2) Inordinate delay by CSRO in communicating a decision over the Complainants Exemption application- **Not sustained**
[see explanation below].

The Ombudsman has made his views clear on the lack of decision making over applications for Exemptions and how in his opinion the decision making process should be prioritised and improved.

In relation to the “*not sustained*” classification, it should be noted that CSRO carry out good work in the area of Immigration and it would be grossly unfair for the Ombudsman to assign culpability to them for administrative delays in the communication of decisions over Exemptions. Although CSRO may be deemed by aggrieved members of the public to be the cause of delay in communicating said decisions and it is they whom, as a result, have to manage public anger and frustration caused by those very delays, the fact is, CSRO have no involvement in the decision making process and can only convey decisions which must first be communicated to them by H.M. Government.

For the Ombudsman to sustain the second limb of this complaint would be an unwelcome and inequitable example of “*shooting the messenger.*”

Recommendation - that decisions on Exemption applications be processed, determined and communicated within a reasonable time frame. If deferred, reasons should be provided in the interest of fairness and administrative justice.

REPORT ON CASE NO 1262

Complaint against the Civil Status & Registration Office (CSRO")

- (i) Non-Reply from CSRO;
- (ii) Unable to Obtain Healthcare from the Gibraltar Health Authority ("GHA") due to the Delay in Obtaining a Residency Permit & Civilian Registration Card ("CRC")

Complaint

The Complainant was aggrieved because he had not received replies to emails he had sent to CSRO on the 8th and 28th March 2022. He was further aggrieved because he was unable to obtain healthcare from the GHA due to the delay in obtaining a CRC.

Background *[Ombudsman Note: The background is mainly based on the version of events provided by the Complainant, including supporting documentation, at the time of lodging the Complaint with the Ombudsman].*

The Complainant (a retired United Kingdom ("UK") national) initially contacted the Ombudsman on the 5th January 2022. He explained that he had moved to Gibraltar from the UK on the 28th October 2021 and applied to CSRO for residency but the application had been put on hold until the apartment he was moving into (long term) was ready. In the meantime, he advised that he was renting. The Complainant's pressing issue was that he could not register for healthcare with the GHA until he got his CRC. He stated that the GHA had already received his IPC586 form (transfer of medical rights from the UK).

The Complainant explained that he was a diabetic and was trying to get the Covid-19 booster vaccine but that had been refused by the GHA due to not being registered. Furthermore, he was having to pay for medication and did not have access to a GHA doctor. He explained that he had moved to Gibraltar to be close to his daughter who had lived in Gibraltar for the past two years and enjoy his retirement but under the circumstances, believed that he had not been made to feel welcome. The Ombudsman reverted with a number of queries and was informed by the Complainant on the 11th January 2022 that he had had the booster vaccine as the GHA had set up a temporary account for him, solely for that purpose. He would now wait for completion of the new apartment he was moving into, estimated end of January, at which point he would be able to complete his residency application and register with the GHA.

On the 8th March 2022, the Complainant emailed the Head of CSRO (“Head”) informing him that he had moved into his new apartment and advised that he would send the tenancy agreement and utility connection confirmations separately which was done that same day. The Complainant asked the Head to let him know if any further information was required. As he did not receive a response, he emailed the Head on the 28th March 2022 asking for an update on his application, reiterating that he could not register with the GHA until he obtained his residency and highlighting how urgent this was for him.

On the 8th April 2022, the Complainant lodged his complaints with the Ombudsman as he had not received a reply from CSRO.

Investigation

The Ombudsman wrote to the Head on the 11th April 2022 and received his response on the 13th April 2022. The Head explained that he had inadvertently not responded to the Complainant's recent emails but stated that the Complainant was fully aware, through earlier communications with CSRO, of the necessary requirements for the processing of his application for a CRC and permit of residence ("Permit"). The Head advised that his initial communication with the Complainant dated back to the 24th December 2021 when he provided CSRO with a rental agreement in respect of a property, which after close investigation, was found to still be under construction. The Head pointed out that the rental agreement had been provided by the Complainant's daughter who worked at an estate agency. At the time, the Head spoke to both of them and followed the communication with an email (copy provided to the Ombudsman). The email stated that CSRO process applications for residency for British Citizens who have chosen to make Gibraltar their permanent home and have chosen to transfer their UK medical rights to Gibraltar.

The Complainant applied for a CRC and Permit on the 9th November 2021 and supported the application with two rental agreements. The first was a short term let from 1st November to 1st December 2021. The second was for another property (according to the Complainant the property number was later changed by the developer just before completion), scheduled to commence on the 1st December 2021 and terminating on 30th November 2022. Enquiries from CSRO to Town Planning & Building Control confirmed that the second rental property could not be accepted because the property was still under construction and a certificate of completion had not yet been issued to the developer. The Head regretted that the Complainant's application for residency could not be proceeded with until he re-applied with adequate evidence of sustained rental or purchased accommodation in Gibraltar and referred him to the information provided in the CSRO's guidance notes which accompanied all applications for residence documentation. The Head advised that he would copy the GHA into the email for their information, given that what the Complainant appeared to be requiring in the first instance was medical assistance.

The Head informed the Ombudsman that whilst the Complainant had submitted a number of supporting documents, he had failed to furnish CSRO with the evidence of the transfer of his medical rights from the UK to Gibraltar. Notwithstanding, the Head stated that his staff would contact the Complainant the following day (14th April 2022) to remind him of their requirements in order to proceed with the application.

The Ombudsman updated the Complainant on the above. The Complainant reverted on the 20th April 2022 to advise that to date, no one from CSRO had contacted him and as such he had emailed the Head earlier that day for an update and included the email sent to him by the GHA on the 20th December 2021 in which he was informed that they had notified the CSRO that he had transferred his medical rights to Gibraltar. Later that day, a staff member from CSRO replied to the Complainant, notifying him that his application for residency was in process and asked him to contact CSRO by telephone in two weeks to confirm that the CRC was ready for collection. The Complainant received an email from CSRO the following day, informing him that they had managed to make his CRC and Permit and they were ready for collection. The Complainant immediately collected the documents but found that the address on the CRC and the Permit was the one at The Hub, the address of the short term rental he was in when he originally arrived in Gibraltar.

The Complainant notified the CSRO staff member who he had been communicating with who reverted and advised that he had passed the matter on to one of his managers. The Complainant was contacted by the manager later that day and informed that they had been told to use his original application form on which the address stated was The Hub (the short term rental). CSRO advised that the application form was used to enter the applicant's details into the system for the production of the CRC. They added that if the Complainant had moved, he should have submitted a new application form or called in to amend the original one. Notwithstanding, CSRO would make arrangements to issue a new Permit and CRC. The Complainant responded and stated that he had not realised that CSRO were using the original application form and noted that all recent submissions were under his permanent address and that there must have been some confusion.

On the 25th April 2022, CSRO emailed the Complainant to inform him that he could collect the amended documents.

The Ombudsman sought a meeting with the Head to discuss the issues arisen in this case.

Regarding the non-reply, the Head reiterated that he had inadvertently not responded to the Complainant's emails.

In respect of the original application for a CRC and Permit submitted in November 2021, the Head stated that a rental contract of a minimum of six months was required for application. Of the two rental agreements submitted by the Complainant at the time of application, the first was a one month rental agreement and the second was for a property which CSRO identified was still under construction. The Head contacted the estate agency that had drawn up the rental agreement and spoke to the Complainant's daughter who was the person in charge of rentals. According to the Head, the daughter did not know what to respond when he presented her with the information. The Head pointed out to the Ombudsman that they could have reported this matter to the Royal Gibraltar Police ("RGP") as in their opinion, the application was submitted fraudulently; a rental agreement for a property that was still under construction.

Regarding the Complainant's registration with the GHA, the Head stated that they do not require a CRC as proof that the person is residing in Gibraltar. The address on a CRC is as good as the day that it is issued on. Therefore, in the Complainant's case, considering that he had transferred his medical rights from the UK, GHA could have requested that he provide proof of residence and once that was evidenced and the GHA were satisfied they could have assisted him.

Conclusions

Complaint (i) – Non Reply from CSRO - The Ombudsman sustained this complaint.

If the Head had responded to the Complainant and informed him that as per the information contained in his email to him of the 24th December 2021, he would have to reapply for residency, providing adequate evidence as well as submitting a fresh application form, the subsequent production of the CRC and Permit with the wrong address on it would have been avoided as well as the lodging of the complaints with the Ombudsman.

Complaint (ii) – Unable to get Healthcare from the GHA due to the Delay in Obtaining a Residency Permit & CRC

The Ombudsman did not sustain this complaint.

Despite having applied for a CRC and a Permit in early November 2021, the Complainant was only in a position to properly apply for a CRC and Permit on the 8th March 2022, the date on which he emailed the Head, after having moved in to the long term rental, once the works in the property were completed. The CRC and Permit were issued on the 21st April 2022, albeit with an erroneous address due to what has been explained in the Investigation Section of this report.

Regarding the processing time for CRC's and Permits, the CSRO's guidance notes state that they will normally be ready for collection between 20 to 22 days after submission. The total period elapsed between the 8th March (date on which the Complainant emailed the Head) and 7th April 2022 would have been 22 working days, the estimated processing time. In the end it took 30 working days (Good Friday and Easter Monday bank holidays fell during that period) making this an eight day delay which is not inordinate, considering the circumstances of this case.

The Complainant's urgency in obtaining a CRC and Permit was for the purpose of being able to register with the GHA for medical care and prescriptions. The Head of CSRO stated that the GHA, in an effort to assist the Complainant, especially considering that his medical rights from the UK had been transferred, could have undertaken the residency check and provided him with GHA cover.

REPORT ON CASE NO 1269

Complaint against the Royal Gibraltar Police (“RGP”) in relation to delay in replying to correspondence regarding an allegation of wrongful arrest and abuse of authority

Complaint

The Complainant was aggrieved because he alleged he has spent 20 days in prison without justification. The nature of his complaint to the Ombudsman was based upon the delay in the investigation which followed.

Background

[Ombudsman Note]: *The background is mainly based on the version of events provided by the Complainant, including supporting documentation, at the time of lodging the complaint with the Ombudsman.*

The Complainant explained how on the 8th January 2020 he was involved in an incident whereby he was approached, insulted and threatened by two men on the northern end of Gibraltar’s Main Street. Said men were previously known to the Complainant.

The Complainant stated that when he made his way to the RGP Station in Casemates Square to make a report of the incident, he was arrested and subsequently detained at HM Prison in Gibraltar from the 8th until the 27th January, serving 20 days in prison without charge. Understandably, the situation caused and continues to cause the Complainant distrust in the police and distress at the sense of the injustice he has suffered.

Frustrated and aggrieved by the entire incident, the Complainant decided to formally complain to the Commissioner of Police over the treatment he had received by the RGP and seeking an explanation/investigation as to how the police had handled the situation and why he had been made to go through the ordeal of having to serve time in prison without justification in his view.

The Complainant wrote to the RGP in March 2022 and issued a chaser letter in May, to which he received no reply. Consequently, he filed a complaint of delay with the Office of the Ombudsman.

Investigation

The Ombudsman wrote to the RGP on the 16th June 2022 setting out the complaint of delay and requesting their comments.

In reply, the RGP confirmed that a letter had indeed been received by them from the Complainant on 1st March 2022 stating that he had been remanded in custody for 20 days as a consequence of an alleged unlawful arrest “some six months earlier”. Said letter was subsequently referred internally to a named Superintendent of the RGP’s Professional Standards Department (“PSD”), for him to action accordingly. In the RGP’s letter, the Ombudsman was kindly made aware of the general procedure applicable to complaints made against the police.

All complaints made against police officers are subject to the Police Complaints Regulations 2008 (“the Regulations”). Regulation 6(1) states that any person wishing to make a complaint must address their complaint in writing to the Police Complaints Board (“PCB”). The PCB may then refer the matter to the RGP for investigation, in accordance with the Regulations. The standard procedure was that once a complaint had been filed, the PCB would formally refer the matter back to the RGP for investigation under Regulation 19.

The RGP's letter to the Ombudsman further explained that upon receipt of the Complainant's complaint and subsequent referral to the PCB for it to be addressed in compliance with the Regulations, it had been discovered that the PCB was already in receipt of the complaint, since the Complainant had previously "attended in person and lodged the complaint with the PCB". (The Ombudsman did have sight of a letter of acknowledgment from the PCB to the Complainant dated 3rd March 2022). In that letter the PCB had stated that ordinarily, complaints would be resolved within "a targeted time of twelve weeks unless they were complex just as simple complaints may take less time to settle". Complainants would also be "furnished with progress of [their] complaint at regular intervals".

Some two months elapsed and given that the Complainant had not received an update, he sent a chaser to the RGP on the 26th May 2022 to ascertain how the investigation was going. The RGP Superintendent concerned, reviewed the matter on the 10th June by which date he was able to confirm that the PCB had not referred the matter back to the RGP for investigation. Despite that and with a view to expedite matters, the Superintendent forwarded the complaint to the RGP Professional Standards Department and asked them to instigate an initial examination pursuant to 9(4) PCR 2008.

RGP officers were also instructed by the Superintendent to contact the Complainant and to reassure him, given he had expressed concern that matters were not being dealt with as they should.

By way of additional information and clarification, the RGP also informed the Ombudsman that further to their investigation it transpired that the incident being complained of had occurred in 2020 (some two years earlier), and not in 2022 (as had been alleged by the Complainant in his letter of complaint). The confusion in dates as to when the incident took place had contributed to some element of delay in the enquiry process.

Over the course of the ensuing weeks, the office of the Ombudsman met with the Complainant on a number of occasions to reassure him that the RGP were “doing their work” and that a report would be issued by the PCB as soon as it had been compiled.

The Ombudsman contacted the RGP (and met with the Superintendent for an update on progress). He also wrote to the PCB, requesting a copy of their findings on the complaint as soon as it was published.

Said copy was finally made available in October 2022, the report having been signed off as completed on 1st October.

Conclusions

It is important to note that this report focusses exclusively on the issue of administrative delay in the investigation by the RGP and publication of findings on the Complainant’s complaint by the PCB. The legality and fairness (or otherwise) of the Complainant’s detention by the RGP is not for the Ombudsman to opine on and is solely referred to herein by way of context and background.

The Ombudsman sympathised with the Complainant’s position. The period of his remand in custody which he deemed to be unjustified and excessive had caused him distress and as a result, he lodged a complaint with the RGP and PCB for the incident to be formally investigated.

Although it was “the resolution of the [PCB] to settle complaints in a targeted time of twelve weeks” depending on the complexity of an investigation received at any given time, in the case of the Complainant, the period of twelve weeks ran to thirty-four, from the date of the complaint having been lodged to the publication of PCB’s findings.

It should be noted that both the PCB and RGP were fully cooperative with the Ombudsman throughout the complaint handling process. It should also be highlighted that there had been some confusion over the dates when the alleged incident which led to the grievance took place, (as previously referred to in the body of this report). That confusion was undoubtedly a contributing factor to the delay.

However, given the amount of material which would have been reviewed as part of the investigation (which was not voluminous although there was the issue of obtaining and reviewing some cctv footage), and the length of the published findings (which although clearly thorough and well drafted, only ran into two pages given the simple nature of the complaint), the Ombudsman considered that the process took much longer than it should have.

For the entire PCB process to have taken thirty-four weeks as opposed to the target of twelve weeks by their own standard, was not reasonable under the circumstances and not in accordance with good administrative practice. The lack of referral by the PCB to the RGP for investigation (which was discovered by the RGP on 10th June (13 weeks after the Complainant filed his complaint), was a major oversight which substantially contributed to the delay. An apology should be issued to the Complainant for this error.

Written updates to the Complainant (as stated in the PCB's letter to him of the 3rd March 2022) were also lacking.

UPDATE

At the conclusion of the Ombudsman's investigation and subsequent drafting of this report, a draft of it was sent to the RGP and PCB (in accordance with the Gibraltar Public Service Ombudsman's custom to allow the parties the opportunity to provide comments of FACT (not opinion) before the report is issued in final form). The Chairman of the PCB made some significant comments correcting the previous factual account provided to the Ombudsman by the RGP (in error).

The PCB's letter brought the following timeline to the Ombudsman's attention:

- On 1st March 2022, the Complainant submitted a complaint to the RGP and copied the PCB.
- On 2nd March 2022, the PCB notified the RGP that the complaint had been logged as case number 02/22 and requested details of the police officers concerned.
- The PCB had no written record of when the RGP was requested to investigate the matter. However, the PCB Chairman was able to confirm that on 31st March 2022, the PCB received a report from the RGP addressing the complaint. The RGP Report was dated 3rd March 2022 and set out a request for the complaint to be investigated. The Chairman was therefore at odds with the information previously provided to the Ombudsman by the RGP that following an RGP review on 10th June, "the PCB had not referred the matter [back] to the RGP for investigation."
- On 31st March 2022, the matter was referred to a PCB subcommittee.
- On 14th June 2022, the Chairman was informed by the RGP that as a result of further information submitted by the Complainant, the PCB should disregard the previous report submitted by the RGP and that they would submit a revised report.

A new report was received on 26th July 2022 and an investigation by the PCB was commenced on 10th August 2022.

The RGP also subsequently contacted the Ombudsman confirming that the information initially supplied by them had been erroneous. It was confirmed that it appeared the complaint had effectively been dealt with on two occasions. On the first occasion, it was dealt with by the PSD within 22 days. At that point they established that the date given by the

complaint be “unsubstantiated” on the ground there had been no arrest “some five or six months earlier” [but some 22 months earlier]. Consequently the RGP PSD considered the matter to have been resolved. On the second occasion, [triggered by the letter of the 26th May 2022], the complaint was dealt with by the RGP PSD within 32 working days. That subsequently led to the PCB’s findings dated 1st October 2022.

It was confirmed that on the 10th June 2022, following on from the Complainants chaser letter of 26th May, the RGP Superintendent spoke to the PSD Inspector to ascertain the position and it was confirmed at that stage that there was no “live investigation” open for the Complainant, until the file was returned to the PCB on the 14th June 2022.

Classification

Delay in the investigation and findings, further to a complaint being filed against the PCB and RGP- Sustained in part.

Delay on the part of the PCB- Not sustained. The PCB acted within a reasonable time frame from the date of receipt of the Complaint from the RGP.

Delay by the RGP- Sustained in part.

The Ombudsman recognises that the RGP made an error both administratively and factually, in the information initially provided to the Ombudsman during the conduct of his investigation. Apologies have been forthcoming and these have been accepted in full. The Ombudsman firmly believes that there was never any mala fides or intention to mislead. Nonetheless, the complaint was investigated twice as a result of a mistake in the date of arrest provided by the Complainant (the second investigation being prompted by the Complainant’s chaser letter).

The Ombudsman expressed the view that the Complainant should have been notified in writing that the “first investigation” had been rendered insubstantial as a result of erroneous information.

The RGP stated in response to this view that it was not their statutory duty to communicate with complainants and that it would not be reasonable to expect an officer to ascertain details of an incident that occurred 22 months earlier when the Complainant had stated it was 5 or 6 months. The Ombudsman agrees with this sentiment. Although it is the role of the PCB to communicate with complainants, in fairness to them, by the time the RGP advised them that the matter had been re-opened pursuant to the chaser letter, there would have been no reason for them to have asked the Complainant to amend the date (of arrest) on his complaint. Although strictly speaking therefore, neither the RGP nor PCB “failed” in informing the Complainant of his error, the Ombudsman considers it unfair that the Complainant was not made aware of his mistake. Although the misinformation provided was his doing entirely, throughout all the time that elapsed, he was under the impression that his complaint was being investigated and was eagerly awaiting an outcome.

The PCB Report (dated 1st October 2022) refers to the Complainant having been lodged on 1st March and solely focusses (as it rightly should) on the factual aspects of the Complaint. There is no reference to a pause in the process. For all events and purposes and even though the Complainant cannot be fully sustained, the Complainant had, as far as he is concerned, been waiting for his complaint to be investigated and conclusions reached from March to October 2022.

Observations

Despite his lack of jurisdiction to pass judgment on the report findings per se, the Ombudsman saw fit (given observations made by the PCB in their report and upon guidance sought by the Complainant thereafter), to advise the Complainant that he had the option if he so wished, of seeking a legal opinion on any potential action against the RGP, based upon the Complainant having potentially spent more time in prison than may have been necessary (as suggested in the PCB report).



Public Services Ombudsman

10 Governor's Lane, Gibraltar

Tel: (+350) 20046001 • Email: info@ombudsman.gi

Web: www.ombudsman.org.gi