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*‘Challenges of Ombudsman Work in Small Jurisdictions’*

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**Introduction**

First of all, let me say what a privilege and pleasure it is for me to have been so kindly invited by Ms Arlene Brock to attend and take part in this conference.

**Challenges of Ombudsman Work in Small Jurisdictions**

I come from a very small jurisdiction. Based on my experiences over the last five years since I was appointed Ombudsman, I feel that there may be challenges for Ombudsmen in small jurisdictions, but challenges that can be overcome and at times even be advantageous.

It is true that there are times when one feels very lonely being the only Ombudsman in the area as it is important to be able to share information and seek the counsel and opinions of other fellow ombudsmen, but I will address this issue later.

The Ombudsman becomes a very well known figure in a small jurisdiction, no doubt better known than in larger countries. The Ombudsman might become the territory's central point where the aggrieved member of the public goes to seek help even if it

is not on a subject related to his jurisdiction. This is my experience. In Gibraltar it is not uncommon for me to be stopped in the street, the supermarket or even in church to be consulted on some matter or other. I know for a fact that our Public Relations Officer and the Head of the Housing Department (our biggest client) are beach-season neighbours!

Although one of the advantages of knowing practically everyone is that when you need information you just pick up a phone, we have developed a policy of requesting information by letter. Not that we wished to create a rigid bureaucratic system, but because we have found it more advantageous to create a letter trail from the very start of any investigation.

With regard to letters, we demand replies within strict time frames and follow up non-replies strictly on due dates.

There are always some officials who form their own opinion that the Ombudsman is just an inconvenient entity. Nothing could be further from reality. Without exception, the legislative provisions to create an office of the Ombudsman in any territory, has been put in place by its Government and it is therefore the express wish of the people to have such an institution. It follows that all officers, no matter their rank must comply with the requests of the Ombudsman for information and in a timely manner. If there are persistent delays, the Ombudsman must be prepared to take appropriate steps in line with their legislative provisions. I must emphasise, delays are not acceptable and should not be tolerated.

Everyone that comes to our office is logged into our data base. For example the nature of the visit may be logged as a complaint or it may be simply to make an enquiry. The important thing to note is that we log everything in our system and at the end of every month we provide information to the entities concerned about how many complaints have been lodged against them or how many enquires we have received and the nature of the

enquiry. We believe that this information assists those under our jurisdiction to consider whether the service that they provide needs improving.

### *The Role of the Ombudsman*

The Ombudsman needs to have in place a system where he can assist all those that come to seek his help.

I would like to relate an interesting issue that arose a few months ago in my jurisdiction. The manner in which I was assisting complainants was questioned by the Administration.

As I have explained, Gibraltar is a very small place and consequently, those who wish to complain to the Ombudsman, almost in 99% of cases, come in person to our offices to lodge their complain. Given this peculiarity, we have developed our own system of assisting those whose complaints may not be 'ready' for the Ombudsman to take on board, for example they may have not yet informed the authority concerned about their grievance.

The Ombudsman in Gibraltar first opened its doors to the public in 1999. Almost since the very start there has been in existence a service whereby we assist those who need to put their complaint in writing. This is not an open service, but is restricted to those cases where the person is unable to write the letter himself, e.g. illiterate, not able to write in the English language or unable to compose a letter without assistance.

We are very conscious of our role and as such we only write what the person tells us; the letter does not include any further contents. Needless to say, we do not 'fish' for complaints.

We received a letter from the Administration which in essence was an instruction that we should not assist persons who wish to

use us as a letter writing service. I replied, with the greatest of respect, that it is the Ombudsman, and no one else, who decides the remit of his office, so long as it is in keeping with his governing legislation.

As Ombudsman, I zealously guard and defend the independence of this institution as our fellow citizens expect to be provided with the best possible service when seeking the assistance of the Ombudsman; its independence and certainty of action are key factors in providing that service.

In my opinion the Act fully allows me to assist persons in the manner that I best consider given the circumstances of each individual case in the context of my wider knowledge and understanding of matters of administration.

I as well as my office have always acted in the strictest impartial manner. At the time of processing a complaint, at whatever stage it may be, we always deal with the issues in a most objective manner. Given the nature and independence of the Office of the Ombudsman and its jurisdiction, the judgement in this regard must be, and is, indeed solely for the Ombudsman based on subjective analysis.

I further added that in my office we are completely at ease with the letter writing service that we provide, which greatly benefits those persons that I mentioned earlier, who but for this service would find it difficult to pursue their grievance. It must be noted that those entities under our jurisdiction also greatly benefit from our system.

It is my opinion that given Gibraltar's idiosyncrasy the system that we have developed is appropriate and in no way affects our total independence.

## *The Importance of Sharing Information*

As we all know, there are difficult decisions to make and whatever decision the Ombudsman makes might have far reaching consequences.

I find that it is useful to be able to share experiences and also to be able to consult with other Ombudsmen when the need arises.

I am fortunate in that I belong to a group of Public Sector Ombudsmen. Our host, Arlene Brock has also attended one of our meetings in London; In fact, that is where I first met her.

The members of this group are the United Kingdom's Parliamentary and Health Service Ombudsman, the Public Sector Ombudsmen from England, Scotland, Wales and Northern Ireland, the Republic of Ireland and Malta, Bermuda and Gibraltar. It goes without saying that such a group of Ombudsmen have an enormous pool of experience.

Although the group meets on an informal basis in that we do not have a formally constituted association of any form, meetings carry a full agenda and the Parliamentary Ombudsman kindly provides the secretarial and organisation services. All of us are most grateful for this.

The meetings are hosted and held in the offices of the different Ombudsmen on a rotational basis.

For my part, I must say that I find these meeting of tremendous help. I confess that very often the matters discussed do not apply to Gibraltar, but even on those occasions, I still obtain valuable information and experience to take back to Gibraltar.

The collective experience of our group assists me a great deal and it also serves in a large way to provide comfort that I am not

alone, but there exists a group of friends with whom I can exchange views or seek their advice.

With the greatest of respect, I would greatly encourage CAROA members to consider such an arrangement, if it does not already exist.

### **Conclusion**

In conclusion, I would like to state that the Ombudsman in a small jurisdiction has a very important role to play in the daily well being of his fellow citizens. They rely on him and look for his assistance when they are aggrieved by the machinery of bureaucracy. This may be true for all Ombudsmen around the world, but is more apparent to those in small jurisdictions.

Thank you.