



Office of the Ombudsman for Bermuda PATI Information Statement

Introduction:

The purpose of the Public Access to Information Act 2010 (“PATI Act”) is to:

- (a) give the public the right to obtain access to information held by public authorities to the greatest extent possible, subject to exceptions that are in the public interest or for the protection of the rights of others;
- (b) increase transparency, and eliminate unnecessary secrecy, with regard to information held by public authorities;
- (c) increase the accountability of public authorities;
- (d) inform the public about the activities of public authorities, including the manner in which they make decisions; and
- (e) have more information placed in the public domain as a matter of routine.

Under section 5 of the PATI Act, every public authority¹ in Bermuda must produce an information statement describing its organisation, functions, policies and procedures and the name of a contact person to whom requests under the PATI Act are to be directed. The Ombudsman’s information statement aims to make it easy to access key information about the Ombudsman’s activities.

Here is a summary of what is in the information statement:

- Who we are and what we do
- What we spend and how we spend it
- What our priorities are and how we are doing
- How we make our decisions
- Our policies and procedures
- Lists and registers

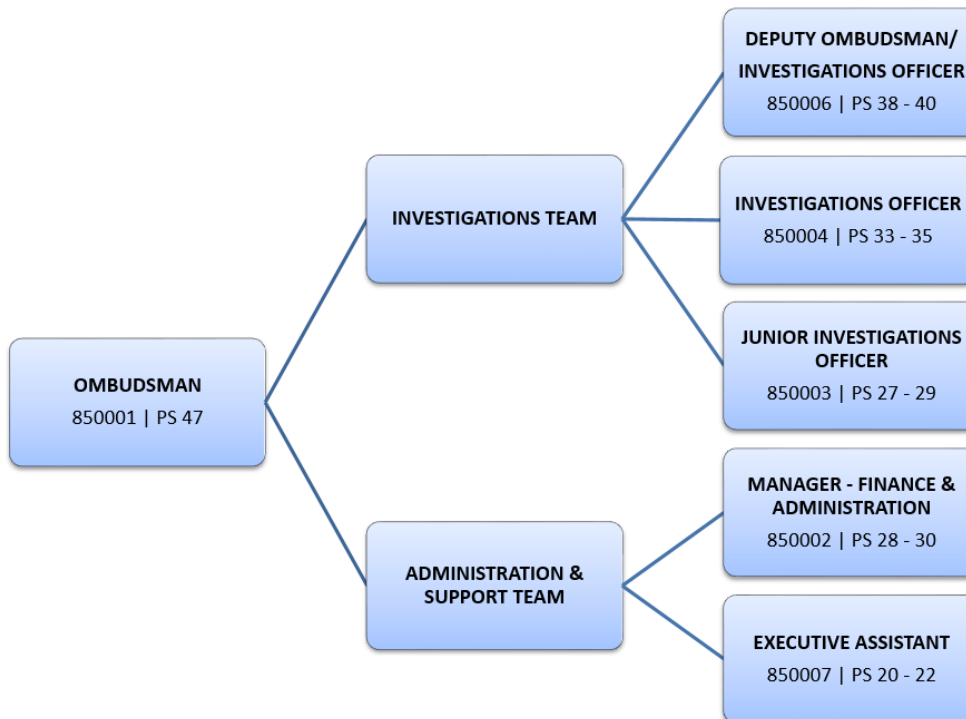
The information provided includes: organisational structure of our Office; governing legislation; functions and powers; services and programmes; information held, grouped into decision-making, administrative or other records; further information, including financial; contact details for the information officer; and locations of the information statement.

¹ Section 1 of the PATI Act defines a public authority to mean an entity listed in column 1 of the Schedule.

Section A: Structure, Organisation and Legislation – s.5(1)(a)

Structure & Organisation

The institution of the Ombudsman was established by the 2001 Amendment to the Bermuda Constitution Order and is governed by the Ombudsman Act 2004. Section 93B(2) of the Constitution protects the fundamental characteristic of an Ombudsman, which is independence, by stipulating that “in the exercise of his functions and jurisdiction, the Ombudsman shall not be subject to the direction or control of any person or authority”. Accordingly the Office of the Ombudsman has constitutional responsibilities which it is legally bound to carry out.



Legislation

- The Ombudsman Act 2004 (“Ombudsman Act”)
- The Bermuda Constitution Order 1968 – sections 93A and 93B

Section B.1: Functions, Powers and Duties of the Authority – s.5(1)(b)

The functions of the Ombudsman are:

- (a) to investigate any administrative action of a public authority for the purpose of deciding whether there is evidence of maladministration on the part of the authority;
- (b) pursuant to an investigation, to make recommendations to the authority concerning any administrative action that formed the subject of the investigation and generally about ways of improving its administrative practices and procedures; and

- (c) to perform such other functions as may be conferred on him under the Ombudsman Act or any other Act (s.5(1) Ombudsman Act).

The Ombudsman may investigate any administrative action taken by or on behalf of a public authority:

- (a) where a complaint is made to him by a person who claims to have been treated unjustly as a result of maladministration arising from or in connection with the administrative action taken by the authority; or
- (b) on his own motion, notwithstanding that no complaint has been made to him, where she is satisfied that there are reasonable grounds to carry out an investigation in the public interest (s.5(2) Ombudsman Act).

Subject to the provisions of the Ombudsman Act, the Ombudsman may regulate investigations and proceedings in such manner as she sees fit.

The Ombudsman is required to annually file with the Speaker of the House of Assembly a report on the performance of his functions under the Ombudsman Act.

Section B.2: Obligations under the PATI Act – s.5(1)(b)

To provide an **information statement** for the public and promulgate it (s.5):

- To provide **other information** to the public so that the public needs only to have minimum resort to the use of the PATI Act to obtain information (s.6). This includes:
 - General information, e.g. activities of the Authority
 - Log of all information requests and their outcome
 - Quarterly expenditure, upon request (s.6(5))
 - Contracts valued at \$50,000 or more
- To **respond to information requests** in a timely manner (ss.12–16)
- To **track information requests** and provide this data to the Information Commissioner
- To respond to requests from the Information Commissioner (s.9)
- To **amend personal information** held by the Authority that it is wrong or misleading following a written request by the person to whom the information relates (s.19)
- To conduct an **internal review** if formally requested (part 5)
- To respond to the Information Commissioner in her statutory review pursuant to part 6 s.47(4), if required, subject to s.21 of the Ombudsman Act
- To provide an **annual written report** to the Information Commissioner of the status of information requests (s.58(3))
- **To do anything else as required** under the PATI Act and Regulations (ss.59–60), including:
 - **Fees** for information requests
 - Management and maintenance of **records**
 - **Procedures** for administering the PATI Act
- To **train staff and make arrangements** so as to facilitate compliance with the PATI Act (s.61)
- To **designate one of its officers** to be the person to whom requests are directed (s.62)

Section C: Services and Programmes – s.5(1)(c)

Services

The key services provided by the Office of the Ombudsman are:

- to provide effective and efficient complaint handling for members of the public who make complaints about any administrative action of an authority. This may include referring a

complainant to an appropriate authority for further consideration or declining a complaint in a timely fashion and with reasons for declining the complaint;

- to conduct effective and efficient preliminary inquiries and, when needed, investigations of complaints to determine whether there is evidence of maladministration on the part of the authority; and
- when she determines there is evidence of maladministration, to provide actionable recommendations for specific complaints and general recommendations for ongoing improvement in the delivery of government services.

Costs of Services

There is no charge for making a complaint with the Office of the Ombudsman or for any investigation which may be conducted pursuant to a complaint.

Section D: Records and Documents Held – s.5(1)(d)

Records obtained or created by the Office of the Ombudsman in the course of carrying out its functions are not accessible to the public under s.4(1)(b) of the PATI Act with the exception of records related to the general administration of the Office.

The Office of the Ombudsman’s Manager – Finance & Administration is responsible for maintaining personnel records of the Office’s staff members. These records fall within part 4 of the PATI Act “Exempt Records”, under s.23 and s.24 and, as such, are exempt from disclosure to the public on the grounds that they are personal information. (S.23(2) provides exceptions to this and s.24(2) details what “personal information” does not include.)

The Office of the Ombudsman publishes his annual reports and any special reports made to Parliament (pursuant to s.24 of the Ombudsman Act). All of these public reports, along with informational pamphlets can be found at the Office of the Ombudsman and his website www.ombudsman.bm.

The Office of the Ombudsman’s accounting records are maintained within the Office by the Manager – Finance & Administration, who keeps the following accounting records, which are accessible to the public:

- Salaries;
- Contractor services;
- Vacation leave;
- Books, periodicals and subscriptions;
- Professional training;
- Membership fees;
- Office supplies;
- Repair and maintenance of office and office equipment;
- Travel;
- Rental – building;
- Audit files; and
- Fixed assets

In addition the Office of the Ombudsman has service contracts that are accessible to the public.

Budgetary records for the Office of the Ombudsman are produced and maintained by the Manager – Finance & Administration. All Government Departments’ budgetary information (i.e. Approved Estimates and Revenue for the Year) are published on the Bermuda Government (Ministry of Finance)

website at www.gov.bm. The public can make specific requests to the Office of the Ombudsman for accounting records, which will be handled on a case-by-case basis.

Section E: Administration (all public access) Manuals – s.5(1)(e)

The Office of the Ombudsman uses a Complaint Management Policy and Procedure draft Manual. Ombudsman Offices worldwide rely on shared tools and guidance. In our work we routinely refer to the “Principles of Good Administration” published by the UK Parliamentary and Health Service Ombudsman in 2007. There are other manuals of best practice relied on from various jurisdictions. The office is guided by the Code of Conduct and the “Government of Bermuda’s Financial Instructions”.

Section F: Decision-Making Documents – s.5(1)(f)

The Ombudsman Act sets out the Ombudsman’s functions, jurisdiction, complaint handling, investigatory powers and obligations. Additionally, case law of the Supreme Court of Bermuda has provided guidance on the Ombudsman’s operations under the Ombudsman Act. Principles of good administration and best practices.

Section G: Information Officer – s.5(1)(g)

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Section H: Any Other Information – s.5(1)(h)

Pursuant to s.4(1)(b)(iv), the PATI Act does not apply to records obtained or created by the Office of the Ombudsman in the course of carrying out his complaint handling and investigative functions. Accordingly any records related to complaints or investigations undertaken by the Office, whether pursuant to complaints made by individuals or upon the Ombudsman’s own motion, are exempt from requests for information.

Section I: Any Other Information to Be Provided – s.5(1)(i)

N/A

Section J: Information Statement: Copies and Updates – s.5(2)–(5)

Pursuant to s.5(2)–(5) of the PATI Act, every public authority shall update its information statement at least once a year and make it available for inspection by the public at reasonable times.

Date information statement was updated: 4th December 2024

Locations of information statement:

- The Office of the Ombudsman, located at Suite 102, 14 Dundonald Street West, Hamilton HM 09
- The Bermuda National Library

- The Bermuda Archives
- The Information Commissioner's Office
- Website: www.ombudsman.bm



Michael A. DeSilva
Ombudsman for Bermuda

04-Dec-24

Date