



Speaker's Chambers
House of Assembly
Bermuda

30th September 2015

All Members of the Bermuda Legislature:

Dear Members,

The President of the Senate and I have been in receipt of letters from both the Ombudsman Association (based in the UK) and the International Ombudsman Institute (based in Vienna, Austria). These letters each speak to the Constitutional role of the Ombudsman for Bermuda and the importance of the Ombudsman in ensuring transparency, accountability and best practice in good governance through investigating complaints from citizens and reporting her findings to Parliament and the general public. We have acknowledged receipt of these letters.

As Parliament is currently in summer recess, copies of these letters are forwarded to each of you by email for your reference. Rather than wait until the Reconvening of Parliament in November, we felt it important that you be made aware now of the concerns expressed by the two noted organisations regarding the perceived disrespectful language used towards our Ombudsman by some members of the Government following the recent release of the Ombudsman's last published report containing criticism of the mishandling of a complaint made by a citizen against the Department of Immigration within the Ministry of Home Affairs.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K.H. Horton', followed by a long horizontal line.

Hon. K.H. Randolph Horton, JP, MP
SPEAKER

cc: Senator the Hon. Carolanne M. Bassett, JP – President of Senate

attachs./

The Hon. K.H. Randolph Horton, JP, MP
Speaker, House of Assembly
Sessions House
21 Parliament Street
Hamilton HM 12
Bermuda

28 August 2015

and

The Hon. Senator Carol Bassett
President of the Senate of Bermuda
The Cabinet Building
105 Front Street
Hamilton HM 12
Bermuda

Dear Mr. Speaker and Madam President,

Ombudsman for Bermuda

The Ombudsman Association (formerly the British and Irish Ombudsman Association) was established in 1993 and includes as members all major public and private sector Ombudsman schemes and complaint handling bodies in the United Kingdom, the Republic of Ireland, and Britain's Crown Dependencies and Overseas Territories. The Office of the Ombudsman for Bermuda is a long-standing member of the Association.

The Vision of the Association is that throughout the public and private sectors:

- It is straightforward and simple for people to complain.
- People making a complaint are listened to and treated fairly.
- A complaint is dealt with quickly, fairly and effectively at the earliest stage by suitably trained staff.
- People have access to an ombudsman in all areas of consumer and public services.
- The learning from a complaint is used to improve services.

The Association's objectives are to:

- a) Support and promote an effective system of complaint handling and redress in the United Kingdom, Ireland, Britain's Crown Dependencies and Britain's Overseas Territories.
- b) Encourage, develop and protect the role of ombudsmen in both the public and private sectors as the 'best practice' model for resolving complaints, according recognition through membership.

- c) Provide an authoritative voice and promote best practice and policy for those involved in complaint handling and redress to ensure an effective service for the public.
- d) Support open and transparent accountability and endorse principles of good complaint handling.

Ombudsman help to underpin public confidence in the institutions that they cover; by providing accessible and effective redress, and by feeding back the lessons from their work in order to help improve service delivery and complaints-management for the future.

I am sure that you would agree that as an integral part of Bermuda's constitution the Office of the Ombudsman for Bermuda should enjoy the respect and support of Parliament as it undertakes this crucial role.

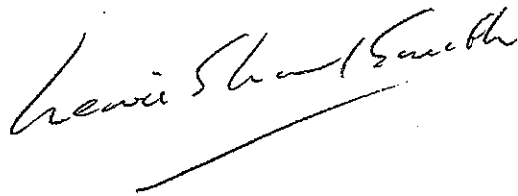
The Ombudsman Association has therefore viewed with some concern the dismissive language that has been used towards the Ombudsman for Bermuda by some members of the Government.

As our colleagues at the International Ombudsman Institute (IOI) have noted, it is inevitable that from time-to-time an ombudsman will produce reports that are critical of the actions of Government Departments and other bodies. When this occurs it is in the interests of the citizen that any disagreements are handled with respect for the constitutional role of the Office. You may be aware that in the United Kingdom jurisprudence has been established by the Courts that Government Ministers must have 'cogent reasons' for rejecting an Ombudsman's recommendations. It was with concern, therefore, that we have read the damaging and dismissive comments that have been made about the Office of the Ombudsman for Bermuda, in particular the Minister of Home Affairs' assertion that it is "*entirely our prerogative*" as to whether the Ombudsman's recommendations are accepted.

I would strongly encourage Parliament to support the constitutional role of the Office of the Ombudsman for Bermuda and to help find a way to restore the good working relationship between the Office of the Ombudsman and the Government.

If the Ombudsman Association can be of any assistance in this, we would be more than happy to help.

Yours sincerely

A handwritten signature in dark ink, reading 'Lewis Shand Smith', with a long horizontal flourish underneath.

Lewis Shand Smith
Chair, Ombudsman Association

Copied to:

The Honourable Michael Dunkley, JP, MP, Premier of Bermuda
Dr. Rachnilda Arduin, President, Caribbean Ombudsman Association (CAROA)
Ms. Victoria Pearman, Ombudsman for Bermuda



The Hon. K.H. Randolph Horton, JP, MP
Speaker, House of Assembly
Sessions House
21 Parliament Street
Hamilton HM 12
Bermuda

and

The Hon. Senator Carol Bassett
President of the Senate of Bermuda
The Cabinet Building
105 Front Street
Hamilton HM 12
Bermuda

VA-5904/0001-INT/2014

Vienna, 31 August 2015

Dear Mr. Speaker and Madam President

It is our privilege to address you today as President and Secretary General of the International Ombudsman Institute (IOI) – the only global organisation for the cooperation of more than 170 independent Ombudsman institutions from over 90 countries worldwide.

The IOI is committed to promoting and strengthening the concept of Ombudsmanship. An Ombudsman offers independent and objective consideration of complaints, aimed at correcting injustices caused as a result of maladministration. A further important objective of the Ombudsman is to improve services provided to the public by ensuring that systemic failings are identified and corrected. As a consequence, the IOI supports Ombudsman offices in their effort to provide such redress in an independent, fair and objective way and to make proposals designed to prevent any recurrence of maladministration by public bodies.

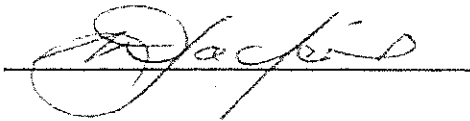
It is therefore with great concern that the IOI has learned about the difficulties faced by one of its members, the Ombudsman for Bermuda, due to the damaging remarks made by the Minister of Home Affairs and by a Government Senator, after the release of the Ombudsman's most recent report and her criticism of the mishandling of a complaint to the Bermuda Ministry of Home Affairs and the Bermuda Department of Immigration.

Bermuda has a well-established Ombudsman institution which is not only an Office of the Constitution but also enjoys a high regard in the Bermudian population. As in other states, the linkage between the Ombudsman and Parliament is critical, enabling the Ombudsman to assist Parliament, in holding public administration to account and protecting the rights of citizens. The Ombudsman for Bermuda, also in line with best international practice, is enabled to investigate complaints received and also to undertake investigations on her own initiative. In line with best practice elsewhere, the Ombudsman reports on her investigations by submitting an annual report to the Speaker of the House of Assembly. The annual report is also provided to the President of the Senate.

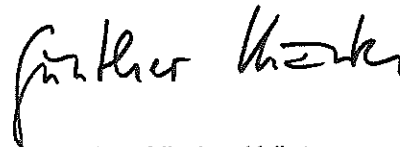
It is inevitable that in the course of the work of any Ombudsman, they will produce reports which are critical of the actions of Government bodies. In a democracy, there is an expectation that such reports will be properly considered and acted upon. It further needs to be underlined, that in order for an Ombudsman to successfully support Parliament in identifying and correcting systemic failings, he/she needs to be heard. The damaging and dismissive remarks made by the Minister and the Senator have the potential to seriously undermine the work of the Ombudsman for Bermuda and are being perceived internationally as evidence of a lack of respect for the Office of the Ombudsman for Bermuda and the rights of Bermuda's citizens and others using services there.

In a state ruled by law it is in the best public interest to fully respect and support the independent investigative mandate of the Ombudsman. The IOI would therefore strongly encourage the acknowledgement of the mandate of the Ombudsman for Bermuda as well as a reasoned and professional response to the Ombudsman's recent report and to reaffirm the support of the House of Assembly and the Senate for democracy, human rights and the rule of law.

Yours Sincerely,



Adv. John R. Walters
IOI President



Dr. Günther Kräuter
IOI Secretary General

cc: The Honourable Michael Dunkley, JP, MP, Premier of Bermuda
Dr. Rachnilda Arduin, President, Caribbean Ombudsman Association (CAROA)
Mr. Donal Galligan, Association Secretary (Interim), Ombudsman Association (OA)
Ms. Victoria Pearman, Ombudsman for Bermuda