

Chapter 02 – Progress and the Future Outlook

***2.1 Observations and
Suggestions***

2.2 Statistical Analysis

2.1.1 Observations

Basically, the role of this institution is to inquire into the complaints that come within the scope of the Office of Ombudsman in terms of the powers and duties vested under the Parliamentary Commissioner for Administration Act and the subsequent amendments made thereto. Accordingly, steps were taken during the last year too, under the provisions contained in the aforesaid Act to remedy alleged injustices caused by public officers in the exercise of their duties towards citizens, as referred to in Article 156 of the Constitution. In doing so, this office made every effort to remedy the alleged injustices that were referred to us for redress. Whenever no amicable settlement was possible, this office made every other means, such as writing to the officers concerned repeatedly and also by contacting them even over the telephone, depending on the circumstances of each case, endeavoring it to have those issues settled expeditiously. During the year under review, a total of 1366 complaints were disposed of having held inquiries *inter-parte* and also upon hearing the parties in a summary manner. There is balance of 828 complaints that were carried over to the year 2021 for further action.

It is to be noted that inadequacy of information provided by the applicants for us to proceed with a complaint is an obstacle to commence inquiries. In such a situation, this office is compelled to request the applicants to provide the required information to this office. In any event, we usually send a particular form, prescribed and named as “OMB-01” to all the applicants requiring them to answer the questions mentioned therein so that we will be able to obtain required and necessary information such as the officers against whom the application is made and the exact decision by which the alleged violation of rights had been committed.

During the year under review, the number of complaints received against the Ministry of Public Administration had decreased noticeably compared to the year 2019. Change in the scope and the duties of the Ministry in the year 2020, may have contributed to decrease the number of complaints. The said change is the separation of the scope of, Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government into two areas. Accordingly, this office received 160 complaints against the Ministry of Home Affairs and Disaster Management. Among them, a considerable number of complaints were received against, Divisional Secretariats and District

Secretariats. Considerable number of complaints had been received to obtain Permits for Government lands and Mahaweli lands. Complaints we received regarding their ownership to those lands were also at a high level when compared to the last year.

Complaints made against officers of the Ministry of Education and the Department of Education also were at a high level. Among them, a considerable number of complaints were in respect of admission of children to the first grade in schools. Such indolence may have been due the irregularities that take place when giving marks during the interview and also due to the issues that arise with the number of schools situated closer to the place of residence where a child could be admitted.

Number of complaints received against, unauthorized constructions, blockage of drainage systems, cutting trees which cause disturbances to neighbors had been increased. The Officials in local government bodies including Pradeshiya Sabhas / Urban Councils / Municipal Councils are the officers responsible to rectify the above issues.

To a large extent such problems were adhered to in the way expected, resulting it achieving the desired results. The number of complaints received against the Department of Pensions had comparatively decreased. Sending response without causing much delay by the Department of Pensions could have been the reason for such satisfactory outcome. However, it is to be noted that there were instances where reminders too had to be sent, to obtain their response.

It is necessary to note that, the disputes between private parties, the matters that had been dealt with or are being adjudicated before Court, issues relating to appointment, transfer, disciplinary control and dismissal of public officers, non-compliance with a decision/ recommendation / action of the Auditor General: fall outside the jurisdiction of the Ombudsman. Applications made due to such matters are being rejected at the very outset. Furthermore, it is to be mentioned that there exists enormous delays in making some applications. However we reject those applications unless the reasons for such delays are explained.

It should also be noted that, it has taken considerable time to resolve an issue, due to the reasons such as delay in replying to the Ombudsman, by the public officers when called

for. Such lethargy in resolving issues and their reluctance to answer the questions also causes delays in obtaining justice.

It is necessary to note that during the pendency of an inquiry or investigation upon a complaint being received, the officials whose decisions had been challenged, expended time and effort, trying to justify a decision or action that they have taken without paying due heed to sense of justice or fairness. Moreover, regardless of the gravity of the wrong done and its deleterious effects on individual citizen, officials seem to have continued in taking wrongful action or spurious decisions, despite justifiable complaints being made against them. It is to be noted that such conduct never enhances proper administration and indeed vitiates the same. Also, it leads to distancing from good governance as public officials do not readily receive citizens and listen to them who bring in legitimate complaints to their notice.

Despite the Covid-19 pandemic in the country this year, our activities continued without any delay. Due to the curfew imposed in the country, the office was closed only in the month of April. As a result, the inquiries convened by us with the participation of the relevant parties had to be postponed. At present, the work is being carried out as usual.

2.1.2 Suggestions

Having considered the matters pertaining to the complaints made to this office following suggestions could be made to remedy the erroneous administrative decisions.

The issue in file bearing No. OMB / P / 2/2/3517/2019 was that the complainant had lost his rights to the land which he had developed for a period of 38 years or even more.

The land in issue in this matter is situated within the Divisional Secretariat Divisions of Karadeniya in Galle district and the permit bearing No. L.L.55551 had been given to the mother of the applicant, Mrs. P.H.Siriyawathi. While she was alive, the right of inheritance was transferred to the applicant's elder brother, and thereafter that brother was named as the successor to the permit. Applicant's mother and the father had died. Her elder brother had been a permanent resident of another Mahaweli land for more than 20

years and he also had died in 2019. In her complaint, Siriyawathie stated that she had been developing, improving, and had been in possession of the aforesaid land Plot while maintaining the same.

After the death of her elder brother, his wife had requested Karadeniya Divisional Secretary, to transfer the title of the land to her. Having conducted inquiries in this regard on 09.10.2019 at the Divisional Secretariat office, summoning all the parties who claimed rights to the land, recommendation had been made to give the land to the wife of Mrs. Siriyawathi's elder brother. However, that person had only agreed to give a portion of the land to Mrs. Siriyawathi who was in continuous possession of the land.

It was revealed that Mrs. P.H. Siriyawathi had been subjected to severe injustice due to the said decision. It was observed that the applicant had lost the land which had been developed and improved by her for over 38 years. However, it should be noted that the decision taken by the Karadeniya Divisional Secretary was never a decision taken against the law in the Land Development Ordinance. at the same time, it is also to be noted that Karadeniya Divisional Secretary had failed to pay due heed to the Common Law concept which requires him to give special attention to the improvements and developments made by the applicant and then to take remedial actions accordingly.

Following suggestions may be made to avoid such issues caused under those circumstances:

- I. Steps should be taken to amend certain provisions of the Land Development Ordinance in a timely manner considering the other Laws and Regulations. This will minimize the occurrence of such problems.
- II. Amending the, Land Development Ordinance in respect of transfer of ownership of a government land, enabling the persons who have been developing and possessing the land for a long period of time, to obtain ownership.
- III. It was clear from the complaints received that following the death of a permit holder of a government land, confusion has arisen as to which person should inherit the land, when the permit had been issued in the name of the deceased. Special attention should be paid to this matter and the Land Development Ordinance should be amended accordingly.

The issue in the file bearing No. OMB / P / 2/2/3127 was that, following the death of the husband of the applicant, Mrs. K. Siriyawathi, the title of the land to which her husband was named as the successor, had not been transferred to her.

The land in question is a government land, located within Agalawatta Divisional Secretariat Division. The permit bearing No. LL 190 had been issued to the father of the deceased husband of the complainant, Mrs. K. Siriyawathi. The husband's father had died in 1981. The husband of the applicant, who was named as the successor in title, died in 1983. The land was later acquired by the government under Section 85 of the Land Development Ordinance as no owner could be found.

However, Mrs. K. Siriyawathie later submitted an affidavit requesting the ownership of the land. At that time, it was learnt that the land had been occupied by an unauthorized person. Although the Agalawatta Divisional Secretary had filed a case in Matugama Magistrate's Court under the provisions of the Recovery of Possession Act, to obtain an eviction order to remove the unauthorized occupant, he was not been evicted due to non-implementation of the judgment. Thereafter, the Western Provincial Land Commissioner had informed the Divisional Secretary to issue a permit in the name of Mrs. Siriyawathi. Accordingly, the relevant surveys of the land were carried out. However, due to the failure of the unauthorized occupant to vacate the aforesaid Land and Premises and due to not handing over peaceful and vacant possession of the said Land and Premises, the Divisional Secretary (Agalawatta) had sought the advice of the Attorney General prior to issuing a permit. However, given the reasons that the record of the above-mentioned case which was filed in Matugama Magistrate court had been misplaced while it was in the custody of the court, the Attorney General was unable to give the requested instructions. Under those circumstances, Mrs. K. Siriyawathi had lost the ownership of the land. The land is still in the possession of the unauthorized person.

Following suggestions may be made to avoid such injustices caused under those circumstances:

- I. Although the Agalawatta Divisional Secretary has the power to evict an unauthorized occupant with the assistance of the Fiscal Officers, when a court order had been issued in respect of a matter, his failure to implement it, is an administrative lethargy

and weakness on the part of the relevant officials. It is necessary to ensure that the officers should be informed to avoid such weaknesses and short-comings.

- II. When files, reports, documents, etc. of all government institutions are sent or taken out from record rooms, a proper procedure needs to be followed and the documents that contain important information should be identified and make a record of it and should be kept safely under the custody of a responsible officer.

The issue in file bearing No. OMB / P / 2/4/4552 is that the applicant, Mrs. M.B.A.Sandamali, who had been working as a Development Assistant in the Puttalam Zonal Education Office, was not absorbed into Grade III of the Development Officers' Service, to which she was entitled to.

The applicant had been appointed as a Development Assistant in the Postal Department on 22.08.2005. Subsequently, she had been transferred to the North Western Provincial Council and reported for work at the Puttalam Zonal Education Office on 20.06.2016. Thereafter, she had made a request to the North Western Provincial Public Service Commission, to promote her to Grade II on 22.08.2015, as she was entitled to be promoted with effect from that date. However, the Provincial Council has informed her that the required period of service was in the Central Government and therefore her request could not be granted. Thereafter, the applicant had requested the Postal Department to promote her to Grade II and to absorb her into the Development Service. Even after referring it to the Ministry of Public Administration, the relevant absorption and promotion was not given.

Pursuant to the reports been called from the relevant authorities, an inquiry was held at this office, summoning the Director General of Combined Services, Director of Combined Services, Senior Administrative Secretary (Main Office) of the Postal Department and the applicant. At this inquiry, it was decided to inquire into this matter from the Public Service Commission since the applicant has expressed her desire to absorb into the service of Development Officer as per Public Administration Circular No. 10/2012. By then she has completed 10 years of service required for promotion to Grade II. As a result, the required approval was obtained from the Public Service Commission, and the Ministry of Public Administration acted on that approval and resolved the applicant's problem.

Following suggestions may be made to avoid such issues:

- I. Government agencies should act with proper coordination with the relevant institutions without unnecessary delay.
- II. When making requests for appointments and promotions, public officers who make such requests also should make the request without delay

The issue in files bearing No. OMB/P/2/7/822, OMB/P/2/7/826, OMB/P/2/7/829, OMB/P/2/7/831, OMB/P/2/7/832, OMB/P/2/7/839, OMB/P/2/7/861, OMB/P/2/7/882, OMB/P/2/7/912 was that though the applicants have received appointments on casual / substitute / temporary/daily basis before they reach the age of 45, they have lost their pensions, since they have passed the age limit of recruitment to the public service at the time of their confirmation in the respective posts.

At the time those appointments were made permanent they have already reached 45 years in age. However, when the officer submits the relevant applications to the Department of Pensions on retirement at the age of 60 to have the pension, the Department of Pensions inform them that it is not possible to grant pension for the reason that they were made permanent in those positions only after they have passed the age of 45 years.

it is necessary to take a clear policy decision to resolve this burning issue since we are also not in a position to make a recommendation deviating from the existing legal framework. Therefore, in order to avoid such problems, I suggest that when granting appointments beyond the age of 45 years to the public service, either the appointees should clearly be informed in writing that they are not entitled to the pension under the rules found in the "Minutes on Pensions" or repeal the regulations in the Minute on Pension allowing them also to have the pension rights.

Finally, as the last suggestion, I recommend that necessary regulations should be made by way of a circular to impose punishments to the officers in the public service and allied services when they make wrong and erroneous decisions. It will be a result oriented remedial measure though harsh on the decision makers.

2.2 Statistical Analysis

2.2.1 Statistical Analysis

There were 1228 complaints received directly from the members of public, in addition to the 5 complaints referred to us by the Parliamentary Petitions Committee during the year 2020. Also, there were 961 complaints that were brought forward from the year 2019. Accordingly, altogether there were 2194 complaints that were dealt with, during the year under review.

Table 1: Statistical Analysis – Year 2020

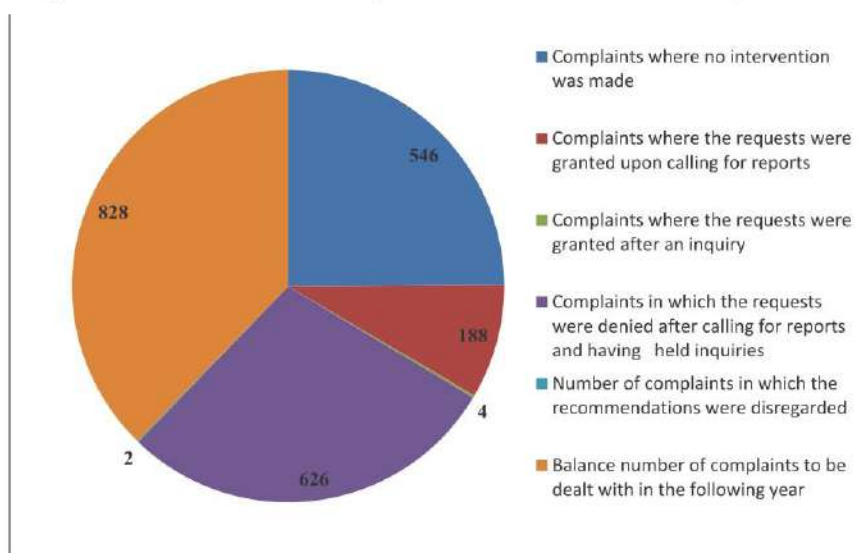
	Pending	Closed	Total
Balance Complaints from the year 2019			961
(1) Total number of complaints received during the period 01.01.2020 to 31.12.2020			
(I) Directly from complainants	1228		
(II) Referred by the Parliamentary Public Petitions Committee	5		
(2) Total number of complaints received during the year 2020			1233
Total number of complaints that were dealt with during the year 2020:-			2194

Total number of complaints investigated during the year 2020:-			
(1) Number of files terminated at preliminary stages :-			
i. Outside the jurisdiction of the Ombudsman		521	
ii. Complaints in which no specific reliefs were sought		25	(546)
(2) Number of complaints inquired into having called for reports from the respective institutions :-			
i. Complaints in which the reports were called upon considering the facts mentioned in the complaint – Not concluded	462		
ii. Complaints in which further reports were called for upon considering the matters mentioned in the reports received – Not concluded	340		
iii. Complaints where the requests were granted after receiving the reports		188	
iv. Complaints in which reliefs were granted on our recommendations made considering the reports that were called for			
v. Complaints in which the requests were denied after calling for reports		437	
vi. Proceedings in the files were terminated due to the lack of interest by the complainants		178	(803)
(3) Complaints where the inquiries were held with the participation of the parties when a decision could not be arrived by calling for reports :-			
i. Number of inquiries held having summoned the complainants and the respondents having looked at the reports received – Not concluded	23		
ii. Complaints in which the requests were denied after having held inquiries		11	
iii. Complaints in which the recommendations were made at the conclusion of the inquiries – Not concluded	3		
iv. Number of complaints in which reliefs were granted having implemented the recommendations made		4	
v. Number of complaints in which the recommendations were disregarded		2	(17)
(1)+(2)+(3) Total			(1366)
Balance number of complaints to be dealt with as at 31.12.2020			828

2.2.2 The manner in which the complaints were dealt with

Totality of the complaints that were to be dealt with for the year 2020 were amounting to 2194 and out of which 828 complaints were carried forward to the following year. Accordingly, 1366 complaints were disposed of during the year 2020. (As shown in Table 1 – Statistical Analysis) Following is the summary in relation to the manner in which those complaints were dealt with.

Graph 1: Manner in which the complaints that were dealt with for the year 2020

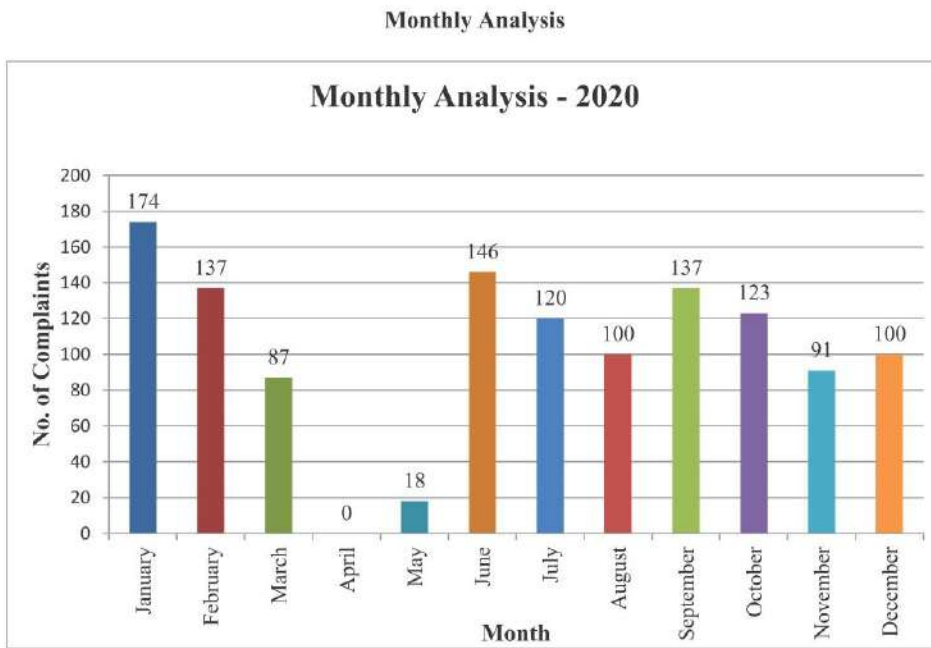


Manner in which the complaints were dealt with	Number of Complaints
● Complaints where no intervention was made	546
● Complaints where the requests were granted upon calling for reports	188
● Complaints where the requests were granted after an inquiry	4
● Complaints in which the requests were denied after calling for reports and having held inquiries	626
● Number of complaints in which the recommendations were disregarded	2
● Balance number of complaints to be dealt with in the following year	828
Total number of complaints that were dealt with during the year 2020	2194

2.2.3 Monthly Analysis

Total number of complaints lodged for the year 2020 was 1233. No Complaint was received for the month of April since this office was closed due to Covid -19 virus. The highest number 174 and it was for the month of January. Relevant particulars are described in graph 2 below:

Graph: 2 Complaints made for each month for the year 2020



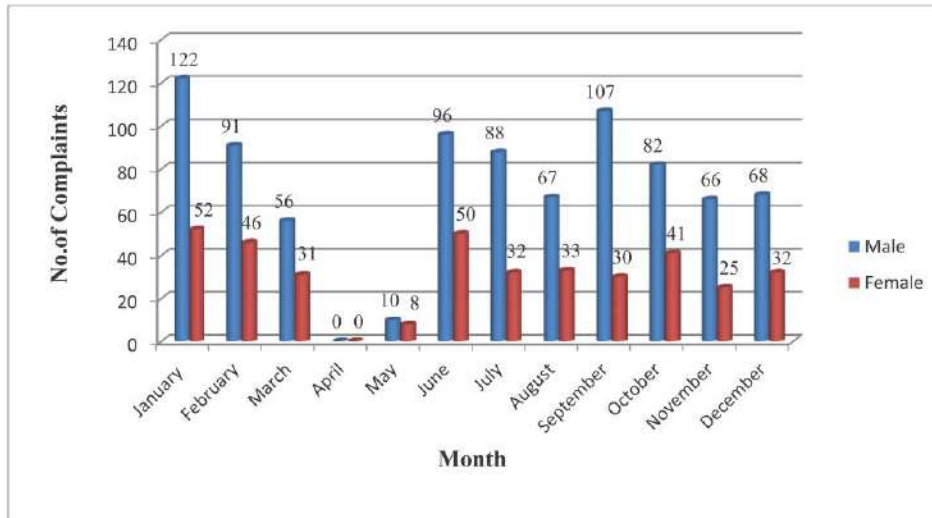
2.2.4 Analysis under the category of Male/Female

853 complaints were made by males while 380 were by females. Those are described in Table - 2 and in Graph - 3.

Table: 2 – Total number of complaints for 2020 on the basis of male and female

Month	Male	Female	Total
January	122	52	174
February	91	46	137
March	56	31	87
April	0	0	0
May	10	8	18
June	96	50	146
July	88	32	120
August	67	33	100
September	107	30	137
October	82	41	123
November	66	25	91
December	68	32	100
Total	853	380	1233

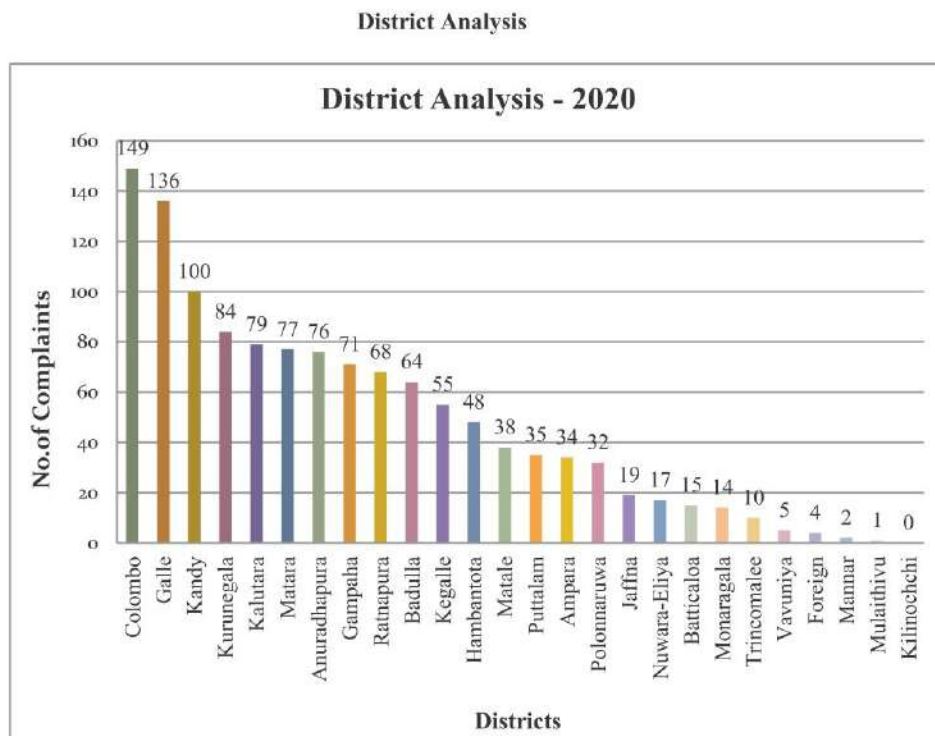
Graph 3: - Total number of complaints for 2020 on the basis of male and female



2.2.5 Analysis on the basis of Districts

Highest numbers of complaints for the year 2020 were received from the District of Colombo and it was amounting to 149. Next highest was from Galle District and it was 136 and the number of complaints from Kandy District were 100. No complaint was received from Kilinochchi District. Refer Graph 4 below.

Graph: 4 –Total number of complaints received for the year 2020 according to the Districts that they reside permanently



2.2.6 Analysis based on the Respective Subjects

In the year 2020, there were considerable number of complaints in respect of the matters such as; issuing of land Permit and Grants of state land, matters related to pension, issues regarding widows & orphans, confirmation of employment, termination of servicemen, reinstatements, promotions, salary anomalies, salary increments, claims for arrears, inaction of officers concerned, payments of employees trust fund, unauthorized construction & annoyances made, issuing licenses, issues relating to building permits. Refer Table 3 below.

Table 3: - Complaints received against the public officers on the basis of respective Subjects

	Subject	Number of Complaints
1	Land permits, Grants of State Lands	133
2	Pension, W&O	110
3	Termination of Employment, Reinstatement, Extension	82
4	Service Absorption, Recruitment, Appointments, Confirmation, Antedating	81
5	Salary Anomalies, Increments, Arrears, Allowances	77
6	Delay, Incompetence, Negligence, Abuse of power.	69
7	Promotions, Seniority	63
8	University / School Admissions, Examination results	52
9	Unauthorized Constructions / Nuisances	47
10	Miscellaneous	25
11	Roadways	24
12	Compensation, Poor relief, Samurdhi	19
13	Transfers from place of work	15
14	EPF / ETF / Gratuity	15
15	Licenses, Building Permits	12
16	Harassment at Work Place	12
17	Electricity, Water, Telephone Connections, Disconnections.	9
18	Loans, Recovery, Rescheduling	6
19	Complaints where no intervention was made	382
Total number of complaints		1233

2.2.7 Analysis as to the Categories such as Ministry, Corporation, Public Institution etc.

Looking at the following Table, it is seen that there exists a large number of complaints against the Home Affairs, District Secretariats/ Divisional Secretariats and the Ministry of Education & Higher Education. When conducting inquiries, it was revealed that majority of the complaints were on issuing of Grants and Permits to State Lands and many of those were against the respective Divisional Secretaries. Refer Table 4 below:

Table 4: - Complaints received against the public officers in the Ministries, Departments, Authorities and Public Institutions etc.

	Ministries, Departments, Authorities etc.	Number of Complaints
1	Home Affairs; District Secretariats, Divisional Secretariats	160
2	Education & Higher Education	147
3	Provincial Councils & Local Government Institutions	91
4	Pensions	71
5	Corporations/Authorities/Boards(CPC,CEB,SLAA,RDA,SLBC,SLRC)	57
6	Health and Indigenous Medicine	39
7	Different Institutions	30
8	Irrigation &Mahaweli Authority	27
9	Transport (SLCTB, CGR, CMV)	25
10	Defense & Internal Security	23
11	Agriculture	21
12	Public Services Commission (Central and Provincial)	20
13	Public Administration	20
14	Cooperative Development	16
15	Social Services / Samurdhi	12
16	Universities	11
17	Posts and Telecommunication	9
18	Lands & Land Reforms Commission	9
19	State Banks	8
20	Finance	7
21	Bureau of Foreign Employment	7
22	Forests	7
23	National Water Supply & Drainage Board	5
24	Urban Development Authority	4
25	National Youth Services Council	4

26	Justice	3
27	Geological Survey and Mines Bureau	3
28	Excise Department Of Sri Lanka	3
29	Department of Motor Traffic	2
30	Department of Registration of Persons	2
31	Department of Examinations	2
32	Plantations	2
33	Department of Technical Education and Training	2
34	Central Cultural Fund	2
	Total number of complaints	851

2.2.8 Analysis of the complaints received by the Ombudsman’s Office during the last 10 years

Upon considering the complaints received for the last 10 years including those of the complaints for the year 2020, it is observed that the highest number of complaints had been made within the last year namely 2019. The number was 1794. Next highest number was 1769 in the year 2012 and it was 1588 in 2018. Lowest number had been received in 2014. Refer Graph 5 below:

Graph: 5 – Complaints received for the last 10 years

