

# THE COMPLAINTS COMMISSION for the VIRGIN ISLANDS

## REPORT

### DISCONTINUATION OF INVESTIGATION INTO BUSINESS/TRADE/PROFESSIONS LICENCES PROCESSING

Complaints about the length of time it took to get responses to licence applications made under the Business, Professions and Trade Licences Act, Cap. 200 and the difficulty of getting clear answers – or any answers – to inquiries were among the earliest that the office dealt with. By mid-year in 2011 I had formed the view that, given the large number of persons affected by the trade licensing process – and given the indications that the complaints we had received appeared to be the tip of a large iceberg - it did not seem efficient to process any more individual complaints, but to instead investigate the entire process. Beginning in July, we announced this to the public in paid advertisements and invited persons who had had business with the Department over the past 30 months to share their experiences, pleasant or otherwise. The press took notice, wrote stories and responses came in. On 1<sup>st</sup> September, 2011 I issued notice to the Permanent Secretary, Premier's Office and the Director for Trade and Consumer Affairs of intention to carry out an investigation into the manner in which the Government dealt with applications for trade and business licences.

2. Quoting from the notice:

*“This investigation is prompted by the number of complaints we have received relating to long delays in processing of such applications and is carried out under authority granted in section 4 (2) (c ) of the Complaints Commissioner Act to investigate matters in the public interest in the Commissioner’s discretion. We will examine the law and regulations, the written procedures and guidelines, the information provided to the public, the handling of applications from reception to notification of decision and the quality of communication with applicants.”*

We initially estimated a completion date of April, 2012.

3. I have decided to discontinue the investigation, taking into account the following matters.

- 1) A news story published on 22<sup>nd</sup> November 2011 in Platinum under a headline “Commitment to fast-track trade licence applications” noted, based on statements by new Ministers Pickering and Vanterpool on a radio programme that **“Government Ministers have given the commitment to clear up the current backlog of trade license applications and implement a proper system to speed up the time the Trade Department takes to respond to applicants.”**
- 2) In early February 2012 I was made aware of a draft report that the Auditor General had compiled on the Department a year before. That document stated that “The overall objective of the audit was performed through the assessment of the efficiency and effectiveness of the Department’s operations by examining its activities, financial controls, and human resources.” Further, the audit aimed, *inter alia*, to: assess the department’s purpose and whether it was functioning within its jurisdiction; assess the

procedures for approving new applications for licences and annual maintenance of active/inactive businesses; and assess the adequacy and competency of human resources in accomplishing the functions of the department. The audit scope was, of course, wider than our intended investigation, but it covered much of the ground that we intended to go over, and its findings and recommendations mirrored what we expected to conclude on the basis of the limited investigations that we had performed to that point. The relevant authorities had copies of the draft report for comment, as is usual.

- 3) The Throne Speech in December, 2011, under the “broad area” of “Stimulating/Fixing the economy, contained the undertaking to amend the Business and Trade Licences Act to **“facilitate a more efficient and effective process of streamlining and linking all other requirements for establishing and operating a business within the Territory”**. The amendments were also to address **“the workflow and timely processing of all licences and related permits as well as the need for implementation of standard requirements that are internationally recognized”**. In the Budget Address delivered in January, 2012 the Premier/Minster of Finance followed this up by referring to the “primary importance” of establishing “an enabling business environment” as part of a draft national trade policy. There was thus a clear political intention expressed of reforming the Department in the desired direction of eliminating the main sources of complaint. (The 2012 Throne Speech delivered in September, it must be said though, did not refer to the undertaking of the previous year as it related to the subject under discussion, nor give an update.)
- 4) In May, 2012 I met with Mr. K Smith who had been retained by the Premier to restart the Small Business Bureau and also to assist in the general transformation of Government dealings with businesses. From the update that he gave, progress was clearly much slower than had been anticipated, but he was tackling the problems. Five months later, he reported “no significant structural changes to the current system of approval as yet” but he had embarked on the requisite consultations with staff and the Ministry. A more recent contact and discussion on the 2012 DTCA annual report confirmed that slow but certain progress continued.
- 5) Most important, as 2012 progressed into 2013, approaches to the Commission with complaints about the Department continued on a downward trend, and the few that came were efficiently tackled after referral to the senior officer there who took on that responsibility.
- 6) Staffing resources at the Complaints Commission remained meager and in light of the above indications, I took a decision, based on sustainable workload and priorities, not to proceed further and to issue this report.

4. I am satisfied from my very latest communications with the Acting Director that improvements in service delivery are continuing. We are grateful to those members of the public who responded to our request for information. We will continue to monitor the situation.