

# 2004

*Summary of Annual Report of The Ombudsman, Hong Kong*

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## Administration

This is the third year since delinking of the Office of The Ombudsman from Government systems and procedures and also the last year of the first five-year term of Ms Alice Tai as The Ombudsman.

With continuous efforts in recruitment, by the end of the reporting year, the Office was staffed almost entirely by contract officers appointed by The Ombudsman. The remaining five civil servants will return to Government within 2004.

Fig. 1

Contract Staff in the Office (as at 31 March)

	2000	2001	2002	2003	2004
<b>Contract Staff</b>	11 (13.2%)	16 (17.8%)	58 (59.2%)	76 (83.0%)	83 (94.3%)
<b>Civil Servants</b>	80 (86.8%)	74 (82.2%)	40 (40.8%)	16 (17.0%)	5 (5.7%)
<b>Total</b>	91	90	98	92	88

To maintain an adequate level of experience, we attach great importance to staff training, in the classroom and on the job.

In keeping with the Administration's cut in public expenditure, our provision will be reduced by 6.8% in 2004/05. To ensure financial viability, we have implemented firm measures to economise.

## Authority and Restrictions

The Ombudsman Ordinance empowers The Ombudsman to conduct preliminary inquiries into complaints before deciding on full investigation. The Ombudsman may also investigate into administrative systems and procedures, even in the absence of a complaint, where public interest or community concern prevails.

Despite these powers, The Ombudsman is not all pervasive. Section 8, read with Schedule 2 to the Ordinance, specifies certain actions not subject to investigation.

Matters of public concern are carefully assessed before a direct investigation is launched. Since introduction of this function in 1994, a total of 46 direct investigations had been conducted, resulting in 628 recommendations for improvement.

## Complaint Handling

We receive complaints lodged with us by post, fax, e-mail, telephone or in person.

Fig. 2

Complaints Received in 2001/02 - 2003/04

Mode	2001/02	2002/03	2003/04
In person	260	425	324
In writing - by letter	1,116	682	1,634
by complaint form	828	1,270	722
by fax	664	978	972
by e-mail #	360	613	742
By telephone*	508	414	267
<b>TOTAL</b>	<b>3,736</b>	<b>4,382</b>	<b>4,661</b>

# introduced in January 2000 \* introduced in March 2001

All complaints within The Ombudsman's purview are examined by our Investigation Teams. We conduct preliminary inquiries to determine whether there is serious maladministration or gross injustice to warrant full investigation. Of the total 4,345 complaints concluded this year, 1,834 were resolved by preliminary inquiries.

Mediation may be conducted for complaints of only minor or no maladministration. Both the complainant and the organisation concerned must give voluntary consent (see Fig. 7 for details on caseload).

On completion of our investigation, the head of organisation has to report to our Office at regular intervals the progress of implementing our recommendations. Where an organisation has not adequately acted on our recommendations, we may report to the Chief Executive under section 16(3) of the Ordinance, who shall then lay a copy of the report before the Legislative Council.

This year, in a few cases where the complainants' specific allegations were not substantiated, we found other significant acts of maladministration during investigation. We feel duty-bound to rectify such defects. The Ombudsman has, therefore, introduced a new classification "substantiated other than alleged" to highlight the gravity of maladministration thus unearthed.

In the past five years, we have identified certain "patterns" of complaints, such as seepage problem, contracting-out of services, inter-departmental co-ordination, reluctance in enforcement and hiding behind prioritisation. All these similar complaints point to a need for a more global view of the fundamental problems causing the complaints. The Ombudsman will be considering the scope for direct investigation into these areas.

## Caseload and Challenges

This year, we received a total of 12,552 enquires and 4,661 complaints. The outbreak of Severe Acute

Respiratory Syndrome (SARS) in early 2003 did not stem the flow of complaints. Despite the work pressure, we have endeavoured to complete cases within the performance pledges. Cases not meeting the pledge was 78 (3.18%), compared to 75 (2.84%) for the previous reporting year.

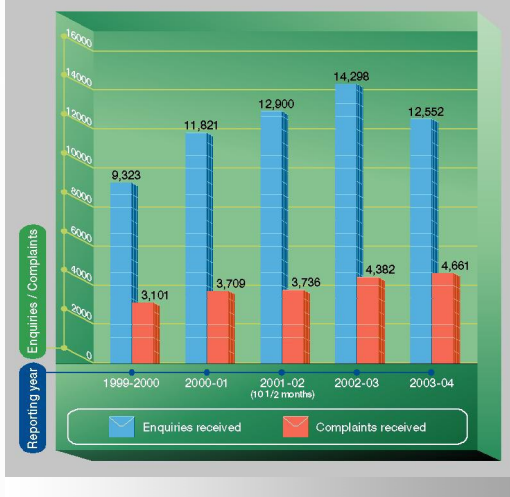
## Findings and Fruits of Investigation

Of the cases concluded this year, "error, wrong decision or advice" and "failure to follow procedures or delay" were the commonest causes of complaint. Some complaints were directed against actions or attitude of individual officers. Our recommendations are generally preventive, and not punitive, in nature. We seek to improve services and public administration. We leave it to heads of organisations whether to discipline their staff.

In 2003/04, we completed 284 full investigations and 5 direct investigations, resulting in 121 and 88 recommendations respectively. Of these, 94.3% were accepted for implementation and 4.3% were still under consideration by the organisations concerned.

Fig. 3

Enquiries / Complaints



Occasionally, organisations and complainants challenge our decisions and actions.

Challenges from organisations focus mainly on the propriety of our inquiries, particularly whether the issues concerned are subject to The Ombudsman's investigation. On the other hand, complainants are concerned about our findings, whether their complaints are substantiated or not.

This year, we received 359 requests from complainants for review, compared to 280 last year. We studied each revived case afresh and in 14 cases we revised our original decision in the light of new evidence or fresh perspectives.

Fig. 4

Revived Cases in 2003/04

Reason \ Result	New Evidence		New Perspective		Outside Jurisdiction	Total
	Yes	No	Yes	No		
Decision varied	2 (3)	-	12 (2)	-	-	14 (5)
Decision upheld	-	306 (234)	-	-	39 (41)	345 (275)
						359 (280)

\* figures of 2002/03 are in brackets

Fig. 5

Number of Recommendations

Year	From Complaint Investigation	From Direct Investigation	Total
1999/2000	108	30	138
2000/01	131	59	190
2001/02 (10 1/2 months)	166	70	236
2002/03	173	72	245
2003/04	121	88	209

For the 1,834 cases processed by preliminary inquiries, 223 suggestions were made for remedial actions or administrative improvement.

Every valid complaint is a reminder to Government to re-visit policies, procedures and practices with The Ombudsman as the referee. In general, the organisations concerned are positive and cooperative in supporting our investigation and implementing our improvement measures.

## Public Education and External Relations

The SARS outbreak in the first half of 2003 affected our schedule of publicity programmes.

We postponed our annual Complaint Management Workshop for public officers on "Cooperation or Confrontation?" from April to December 2003. We cancelled a few group activities.

The Ombudsman Awards 2003 went to the Transport Department (Grand Award), Food and Environmental Hygiene Department and Post Office. 21 public officers were personally honoured on that occasion.



We maintained close liaison with overseas ombudsman offices and international ombudsman organisations. The Ombudsman participated actively in the promotion and development of ombudsmanship at international level in her capacities as a member of the Board of Directors of the International Ombudsman Institute and the Secretary to the Asian Ombudsman Association.

We maintained regular exchange with the China Supervision Institute. Members of the Institute visited Hong Kong in December 2002 and The Ombudsman led a delegation to the Mainland in November 2003 for a week.

Fig. 6



Ms. Alice Tai, The Ombudsman, leading a delegation to Beijing and meeting with Mr. Huang Shuxian, Vice-Minister of Supervision, Ministry of Supervision, to exchange experience

Fig. 7 Caseload

	Reporting year#				
	1999-2000	2000-01	2001-02 (10 <sup>1</sup> / <sub>2</sub> months)	2002-03	2003-04
(A) Enquiries received	9,323	11,821	12,900	14,298	12,552
(B) Complaints received	3,101	3,709	3,736	4,382	4,661
(C) Complaints brought forward	891	581	814	760	772
(D) Complaints for processing = (B) + (C)	3,992	4,290	4,550	5,142	5,433
(E) Complaints concluded	3,411	3,476	3,790	4,370	4,345
By preliminary inquiries	1,436	1,064	1,567	2,172	1,834
- By referral to complainee departments / organisations for replies (INCH)	467	364	353	176	203
- By rendering assistance / clarification (RAC)	969	700	1,214	1,996	1,631
By full investigation	194	161	331	124	284
- Withdrawn / Discontinued	11	-	6	2	6
- Substantiated	22	28	18	15	14
- Partially substantiated	100	41	263	39	24
- Unsubstantiated	61	80	42	68	236
- Incapable of determination	-	12	2	0	1
- Substantiated other than alleged	-	-	-	-	3
By mediation	10	29	19	6	7
Complaints screened out	1,417	1,859	1,563	1,729	1,892
- Restrictions on investigation	592	795	685	971	1,259
- Outside jurisdiction	825	1,064	878	758	633
Complaints withdrawn / discontinued	354	363	310	339	328
(F) Percentage of complaints concluded = (E) ÷ (D)	85%	81%	83%	85%	80%
(G) Total cases carried forward = (D) - (E)	581	814	760	772	1,088
(H) Direct investigations completed	3	5	4	6	5
(I) Direct investigation assessment reports produced	18	9	0	1	5

# Period of Reporting Years  
 99 / 00 : 16.5.99 - 15.5.00      00 / 01 : 16.5.00 - 15.5.01      01 / 02 : 16.5.01 - 31.3.02  
 02 / 03 : 1.4.02 - 31.3.03      03 / 04 : 1.4.03 - 31.3.04

From 2001 / 02, the reporting year ends on 31 March to coincide with the end of financial year.