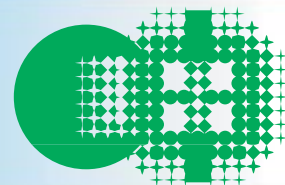


17th Issue | June 2005



*Summary of Annual Report
of The Ombudsman, Hong Kong*
2005



Administration

The Ombudsman has finally phased out all civil servants in December 2004. Her team is now completely contract staff, signalling a new era of delinking entirely from Government.

To cope with the continuing heavy workload, we keep reviewing, streamlining and adjusting our staff resources to maximize output. At the same time, we attach great importance to orientation for new staff and experience sharing among our investigation and support staff.

Fig. 1

Contract Staff in the Office (as at 31 March)					
	2001	2002	2003	2004	2005
Contract Staff	16 (17.8%)	58 (59.2%)	76 (83%)	83 (94.3%)	88 (100%)
Civil Servants	74 (82.2%)	40 (40.8%)	16 (17%)	5 (5.7%)	0 (0%)
Total	90	98	92	88	88

Despite a further reduction of 6.4% in funding for 2005-06, our efforts in staffing economies help to ensure our financial viability and gainful use of resources at this time of constraints.

Authority and Restrictions

The Ombudsman Ordinance empowers The Ombudsman to inquire into complaints of maladministration by Government departments and public bodies in Schedule 1 thereto. There are, however, some restrictions under the Ordinance.

Section 8, read with Schedule 2 to the Ordinance, specifies actions outside her jurisdiction.

Our Office has initiated a review of The Ombudsman's jurisdiction, based on our own experience and overseas practices. We are examining the scope for:

- adding organisations to Schedule 1;
- revising some of the restrictions on investigative powers in Schedule 2; and
- resolving difficulties or uncertainties encountered in inquiries.

Direct Investigation

Even without complaints, The Ombudsman may initiate direct investigation into matters of public interest or community concern that call for review of administrative systems and procedures or practices of the organisations concerned.

There have been increasing calls for The Ombudsman to exercise this power - a reflection of public confidence in our Office. However, where issues could not be completely handled within her purview, The Ombudsman would leave them to other more appropriate authorities.

At times, before formally launching a direct investigation, our Office may conduct an initial assessment. Where such

assessment finds no significant maladministration, or the organisations concerned have made proactive improvement, we will simply forward our assessment report to the organisations for comment, with recommendations for improvement where due.

This year, our Office completed five direct investigations (Fig. 2) and six assessments in other areas.

Fig. 2

Direct Investigation Reports Published in 2004/05	
Published	Subject
20 May 2004	2003 Priority arrangements for surplus teachers in aided primary schools
30 June 2004	Enforcement of the Building Management Ordinance
26 August 2004	Enforcement action on unauthorised building works in New Territories exempted houses
4 November 2004	Administration of urn grave cemeteries
16 December 2004	Bloodworms in public swimming pools

Complaint Handling

Complaints are lodged in person, by telephone or in writing by post, fax or e-mail.

Fig. 3

Complaints Received in 2001/02 – 2004/05				
Mode	2001/02	2002/03	2003/04	2004/05
In person	260	425	324	396
In writing -				
by complaint form	828	1,270	722	934
by letter through post	1,116	682	1,634	1,599
by letter through fax	664	978	972	615
by letter through e-mail	360	613	742	821
By telephone	508	414	267	289
TOTAL	3,736	4,382	4,661	4,654

Complaints initially assessed to be within our jurisdiction or not restricted under the Ordinance are examined by our investigation teams, who conduct preliminary inquiries to determine if there is serious maladministration or gross injustice to warrant full investigation. Complaints involving only minor, or no, maladministration may be processed by mediation, if both the complainant and the organisation consent to it.

Most complaints are resolved by preliminary inquiries.

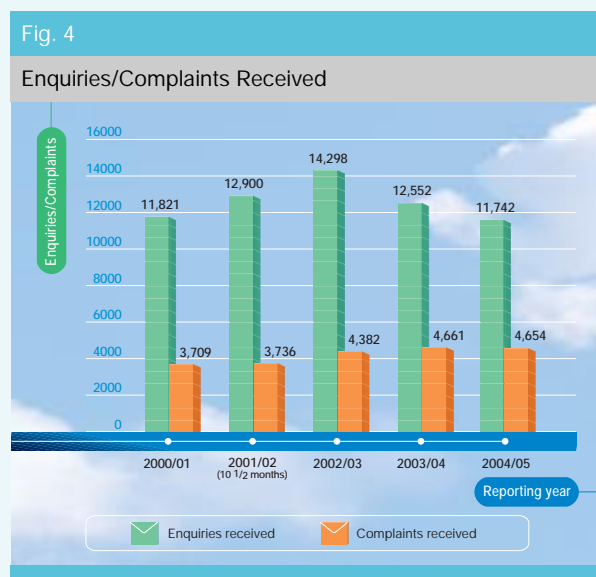
We monitor our complaint processing closely. The work of investigation officers is vetted and monitored by their team leaders. Team meetings attended by the Deputy and Assistant Ombudsmen are held regularly to keep tabs on cases under inquiry. All reports and final replies are approved personally by The Ombudsman.

On completion of our inquiries, complainants and head of organisations are informed of the outcome and recommendations. Heads of organisations are then requested to report to our Office at regular intervals on progress of implementation of our recommendations.

Through processing complaints we have identified systemic issues in certain areas, such as handling of seepage complaints, supervision of contracted out services, inter-departmental co-ordination and resolution in taking enforcement action. We watch for patterned issues, as they often reflect an unhealthy culture within an organisation, and conduct direct investigation into a subject where necessary.

Caseload and Challenges

This year, 4,654 complaints were received, compared with 4,661 last year. At the same time, we concluded 5,023 complaints, a record high compared with 4,345 the previous year. 97% of the complaint cases processed by our investigation teams were concluded within our pledged time of six months.



Complainants dissatisfied with our findings may seek a review of their cases. This year we received 334 such requests, compared to 359 last year. We examined each revived case afresh and varied our original decision in eight cases in the light of new evidence or fresh perspectives.

Fig. 5
Revived Cases in 2004/05

Reason \ Result	New Evidence		New Perspective		Outside Jurisdiction	Total
	Yes	No	Yes	No		
Decision varied	2	-	6	-	-	8
Decision upheld	-	299	-	-	27	326
						334

All revived cases are handled with special procedures: the original investigator comments on the complainant's grounds for review, while another officer takes over the actual review. Final replies are approved by The Ombudsman after the Deputy Ombudsman's scrutiny.

Complainants dissatisfied with The Ombudsman's decision may also seek judicial review by the court. This is an important provision since The Ombudsman's decision is final in view of her statutory independence. This year, a complainant applied for judicial review of The Ombudsman's decision.

Findings and Fruits of Investigation

Complaints against "error, wrong decision or advice" continued to top the list of cases concluded this year, followed by "failure to follow procedures, delay", though the latter was the most common form of maladministration substantiated by our investigation. We make rehabilitative and preventive recommendations, aiming to improve rather than to disapprove. We leave discipline to heads of organisations.

This year we made a total of 270 recommendations. Of these, 97.4% were accepted for implementation and 2.2% were still under consideration by the organisations concerned. For the 1,873 cases concluded after preliminary inquiries, 181 suggestions were made for remedial actions or administrative improvement.

Fig. 6
Number of Recommendations

Year	From complaint investigation	From direct investigation	Total
2000/01	131	59	190
2001/02 (10 1/2 months)	166	70	236
2002/03	173	72	245
2003/04	121	88	209
2004/05	198	72	270

Implementation of our recommendations and suggestions have resulted in enhancement of quality administration in the form of clearer guidelines for consistency and efficiency, improved inter-departmental co-ordination, enhanced public enquiry/complaint handling, more training for staff, better services and clearer information to the public. Our work has also helped to safeguard human rights, as shown in strengthened security measures to protect inmates of correctional institutions from peer attacks.

We promote positive complaint culture and encourage the public and the Administration to appreciate the positive value of criticism and complaints about deficiencies in the public service.

External Relations

We continued our regular activities to publicize our role and work, including: press conferences, seminars, outreach talks, visits, publications, website, liaison with local leaders, etc. This

year, we have produced a new Announcement of Public Information ("API") for broadcast in the coming year to foster community-wide awareness.

The annual Ombudsman's Awards continued to serve as an impetus to Government departments, public bodies and public officers for better public administration and quality services. The Awards of 2004/05 went to the Leisure and Cultural Services Department (Grand Award), Housing Department and Social Welfare Department. 21 public officers from 18 organisations were also honoured.

We organise a Complaint Management Workshop each year for public officers to enhance professionalism in complaint handling among Government departments and public bodies. The workshop in March 2005 comprising lectures, games and role-play, provided personal development training for such officers and won their favourable feedback.

We maintain close connections with overseas ombudsman offices. The Ombudsman is the Secretary of both the International Ombudsman Institute and Asian Ombudsman Association.

In November 2004, a ten-member delegation of the The China Supervision Institute visited Hong Kong for seven days under our regular exchange programme. We arranged visits for them to Government departments and public bodies for first-hand contact with the local legal and administrative systems. Next year, The Ombudsman will lead a small group on a reciprocal visit to the Mainland.

Fig. 7



The Ombudsman with delegates of the China Supervision Institute

Fig. 8 Caseload

	Reporting year#				
	2000/01	2001/02 (10½ months)	2002/03	2003/04	2004/05
(A) Enquiries received	11,821	12,900	14,298	12,552	11,742
(B) Complaints received	3,709	3,736	4,382	4,661	4,654
(C) Complaints brought forward	581	814	760	772	1,088
(D) Complaints for processing = (B) + (C)	4,290	4,550	5,142	5,433	5,742
(E) Complaints concluded	3,476	3,790	4,370	4,345	5,023
By preliminary inquiries	1,064	1,567	2,172	1,834	1,873
– By referral to complainee departments/ organisations for replies (INCH)	364	353	176	203	209
– By rendering assistance/clarification (RAC)	700	1,214	1,996	1,631	1,664
By full investigation	161	331	124	284	125
– Withdrawn/Discontinued	-	6	2	6	0
– Substantiated	28	18	15	14	31
– Partially substantiated	41	263	39	24	46
– Unsubstantiated	80	42	68	236	45
– Incapable of determination	12	2	0	1	0
– Substantiated other than alleged	-	-	-	3	3
By mediation	29	19	6	7	6
Complaints screened out	1,859	1,563	1,729	1,892	1,948
– Restrictions on investigation	795	685	971	1,259	1,132
– Outside jurisdiction	1,064	878	758	633	816
Complaints withdrawn/discontinued	363	310	339	328	1,071
(F) Percentage of complaints concluded = (E) ÷ (D)	81%	83%	85%	80%	88%
(G) Total cases carried forward = (D) - (E)	814	760	772	1,088	719
(H) Number of direct investigations completed	5	4	6	5	5
(I) Direct investigation assessment reports produced	9	0	1	5	6

Period of Reporting Years

2000/01 : 16.5.00 - 15.5.01 2001/02 : 16.5.01 - 31.3.02 2002/03 : 1.4.02 - 31.3.03 2003/04 : 1.4.03 - 31.3.04 2004/05 : 1.4.04 - 31.3.05

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