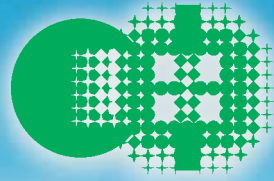


Summary of Annual Report The Ombudsman, Hong Kong

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2006



How We Fare

Enquiries and Complaints Processing

During the year, we received 14,633 enquiries and 4,266 complaints, mostly lodged through the post, though email has become more common.

Fig. 1

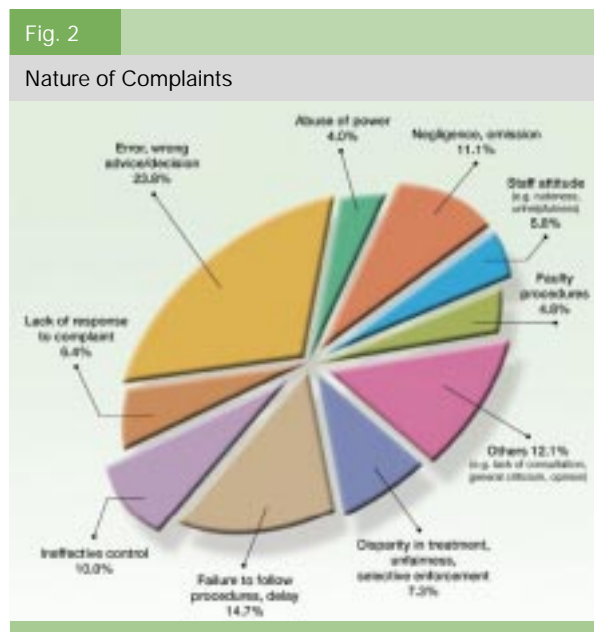
Mode of Lodging Complaints

Mode	2002/03	2003/04	2004/05	2005/06
In person	425	324	396	231
In writing –				
by complaint form	1,270	722	934	613
by letter through post	682	1,634	1,599	1,303
by fax	978	972	615	865
by email	613	742	821	902
By telephone	414	267	289	354
Total	4,382	4,661	4,645	4,266

Major Causes for Complaint

The four most mentioned causes for complaint were:

- error, wrong decision or advice;
- failure to follow procedures, delay;
- negligence, omissions; and
- ineffective control.



The Housing Department and the Food and Environmental Hygiene Department, whose services directly impact on almost all facets of our daily life, continued to attract the most complaints.

Outcome of Inquiries

We concluded 1,825 complaints by full investigation (giving 56 recommendations), preliminary inquiries (with remedial

action required in 269 cases) and mediation. Among the 55 complaints concluded by full investigation, 13 were substantiated and 14 partially substantiated.

Direct Investigation

We completed four self-initiated direct investigations, with 54 recommendations, and six direct investigation assessments. Three direct investigations were in progress at the end of the reporting year.

Fig. 3

Direct Investigation Reports in 2005/06

Date	Subject
1 April 2005	Letting of Market Stalls by Auction
30 August 2005	Monitoring of Property Services Agents by Housing Department
17 January 2006	Monitoring of Assigned-out Cases by Legal Aid Department
31 March 2006	Medical Fee Waiver System

Our Performance Pledges

We work to performance pledges and achieved them fully in respect of handling enquiries and arranging group visits and talks. As for complaint processing, we endeavoured to conclude 97% of the cases under The Ombudsman's jurisdiction within pledge processing time of 6 months.

We have reviewed our pledges, to measure our performance more realistically. From next year, we will start clocking our processing time only after complainants have given evidence of a *prima facie* case and consent for releasing or obtaining their personal data.

How We Foster Improvement

Enhancing Quality of Administration

The recommendations and suggestions we make after direct or case-related investigations aim to help the public organisations concerned improve their administration and enhance the quality of their services. 94.5% of the recommendations have been accepted for implementation.

Such measures fall broadly into six areas:

- guidelines for clarity, consistency or efficiency in operation
- better arrangements for inter-departmental co-ordination
- measures for better public enquiry / complaint handling
- training for staff
- measures for better services
- clearer information to the public

Addressing Systemic Problems

In processing individual cases, we often identify "patterns" or persistent problems that call for a more comprehensive review of systems, procedures and practices. Some examples follow.

Seepage : We have been commenting on this perennial problem and Government had set up a joint office in December 2004 to deal with it. We note that this pilot scheme will be extended to other districts in phases.

Contracting Out of Services : With Government departments' trend for contracting out services and a marked rise in related complaints, we initiated a direct investigation into Housing Department's supervision of property services agents. We concluded that the ultimate responsibility for provision of services remains with the department and there should be far firmer, more positive and proactive monitoring of contractors' performance.

Inadequate Co-ordination : We have found this in many complaints relating to street management, land administration and nuisance in public places. We take the view that departments must take on a broader perspective: however many aspects or different departments may be involved in some matter, the public sees only one and the same Government.

Reluctance in Enforcement : This has continued to be noticeable among some enforcement departments. We consider this highly undesirable particularly where it prolongs the frustration and suffering over nuisances. In time, this may breed disrespect for the authorities and even contempt for the rule of law.

Matters of Principle : We have encountered a few cases where the organisations seemed unable to hold on to their principles. They wavered simply because a complaint had been lodged or the complainants were persistent. While periodic critical review of procedures and practices is commendable, public organisations should not bend upon complaint or bow to pressure, regardless of reasons or principle.

Our Jurisdictional Review

We continued the review: examining the possibility of including more organisations in our ambit, relaxing some of the restrictions on our investigative powers and resolving the difficulties or uncertainties encountered by our officers in discharging their duties.

Human Rights Concern

As a classical ombudsman office, we do not promote human rights as such. However, we do hold a watching brief and safeguard citizens' rights protected by international instruments applicable to Hong Kong. As part of our jurisdictional review, we will consider whether The Ombudsman could play a more active role in human rights protection.

What Problems We Face

Revived Cases

Complainants dissatisfied with our findings or conclusions may seek a review of their cases. In the reporting period, we received 361 requests for review (335 last year). The decision on 13 cases was varied after review, compared to six last year.

Persistent Complainants

Despite our repeated explanation, some complainants would continue to insist on our reviewing their cases time and again without providing new information or fresh evidence. To minimise unproductive work, we have devised a simple card to acknowledge receipt of such requests, quoting from our earlier replies and conclusions. For complainants who choose to bombard us with repeated calls, email messages or letters, The Ombudsman has designated specific officers to respond on her behalf.

Judicial Review by Complainants

By law, The Ombudsman's decision is final. However, she is subject to scrutiny by the courts through judicial review. Last year, a judicial review initiated by a complainant resulted in the High Court ordering that we investigate a fresh point of complaint. We concluded in February 2005 that this complaint was not substantiated. The complainant sought judicial review again but his application was rejected by the High Court and his subsequent appeal dismissed by the Court of Appeal.

Getting Information from Organisations

Most organisations endeavour to meet our requests and furnish us with information on schedule. However, with a few, relevant material had to be extracted piecemeal and only by our persevering with specific and pointed questions.

How We Run the Office

On 24 October 2005, we signed The "Memorandum of Administrative Arrangements" with the Administration. This lays down the firm principle of The Ombudsman's managerial and financial autonomy. It also documents the full independence of the Office.

On staffing, our major objective remains to instill a sense of belonging among our investigators and give a firm foundation for our future workforce. In this connection, we have created a new rank of Assistant Complaint Officer as a bridging arrangement for serving Complaint Assistants to advance to the Complaint Officer grade.

How We Promote Our Work

We promote awareness of our services and sustain community support by multi-media publicity and public education. We have also continued to mount roving exhibitions, organise outreach talks, seminar, workshop and visits to this Office.

This year, The Ombudsman's Awards went to the Buildings Department (Grand Award), Hong Kong Housing Society and Inland Revenue Department. 21 officers were also honoured for their professionalism and positive attitude in handling complaints and for providing quality service to their clients.

For better mutual understanding with Government departments, The Ombudsman started to meet their directorate, to go over general issues and common interests. The programme opened with the Lands Department in

February 2006. The exchange was meaningful. Similar sessions are arranged with other departments.

In July 2005, we went on a week-long study tour to the Mainland and visited Offices of the China Supervision Institute. We shared knowledge and experience on systems and practices in monitoring public administration with our counterparts in Beijing, Jilin and Heilongjiang.

At the international level, we hosted the 9th Asian Ombudsman Association Conference at the end of November 2005. Over 90 delegates from 25 countries came, to exchange views on matters of mutual interest and common concern. Experience was shared and friendship more firmly cemented. We learned much from Ombudsmen worldwide for refinement and further development of our own system. We took the opportunity to showcase Hong Kong as a vibrant city and efficient organiser.

Fig. 4



The 9th AOA Conference

Fig. 5

Caseload	Reporting year#				
	01/02 (10 ¹ / ₂ months)	02/03	03/04	04/05	05/06
(A) Enquiries received	12,900	14,298	12,552	11,742	14,633
(B) Complaints received	3,736	4,382	4,661	4,654	4,266
(C) Complaints brought forward	814	760	772	1,088	719
(D) Complaints for processing = (B) + (C)	4,550	5,142	5,433	5,742	4,985
(E) Complaints handled and concluded	3,790	4,370	4,345	5,023	4,309
By preliminary inquiries	1,567	2,172	1,834	1,873	1,758
– By referral to complaineé departments/ organisations for replies (INCH)	353	176	203	209	185
– By rendering assistance/clarification (RAC)	1,214	1,996	1,631	1,664	1,573
By full investigation	331	124	284	125	55
– Withdrawn/Discontinued	6	2	6	0	2
– Substantiated	18	15	14	31	13
– Partially substantiated	263	39	24	46	14
– Unsubstantiated	42	68	236	45	26
– Incapable of determination	2	0	1	0	0
– Substantiated other than alleged	-	-	3	3	0
By mediation	19	6	7	6	12
Complaints screened out	1,563	1,729	1,892	1,948	1,113
– Restrictions	685	971	1,259	1,132	351
– Outside jurisdiction	878	758	633	816	762
Complaints not pursued	-	-	-	-	1,371
– Discontinued					137
– Withdrawn	310	339	328	1,071	147
– Not undertaken@	-	-	-	-	1,087
(F) Percentage of complaints concluded = (E) ÷ (D)	83%	85%	80%	88%	86%
(G) Total cases carried forward = (D) - (E)	760	772	1,088	719	676
(H) Number of direct investigations completed	4	6	5	5	4
(I) Direct investigation assessment reports produced	0	1	5	6	6

Period of Reporting Years
 01/02: 16.5.01 - 31.3.02 02/03: 1.4.02 - 31.3.03 03/04: 1.4.03 - 31.3.04
 04/05: 1.4.04 - 31.3.05 05/06: 1.4.05 - 31.3.06
 From 2001/02, the reporting year ends on 31 March to coincide with the end of financial year.

@ Including "Potential Complaints".