

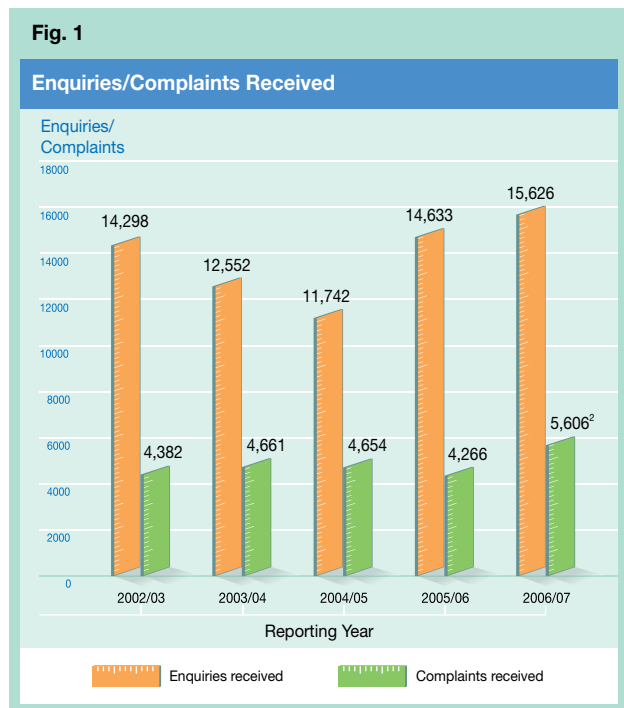
# Summary of Annual Report of The Ombudsman Hong Kong

## June 2007

### Performance and Results

#### Enquiries and Complaints

With adoption of a new strategy for our promotional publicity, we received a record high of 15,626 enquiries and 5,606<sup>1</sup> complaints this year. Two issues of public concern during the year triggered over 200 and 1,300 “serial” complaints. - Typhoon Prapiroon and the Broadcasting Authority’s criticism of a Radio Television Hong Kong programme respectively.



The rising trend in complaints by email, including most of the “serial” complaints mentioned above, intensified this year, accounting for over 40% of all complaints received, only 21% for last year.

**Fig. 2**

**Mode of Lodging Complaints**

| Mode                   | 2002/03      | 2003/04      | 2004/05      | 2005/06      | 2006/07 <sup>3</sup> |
|------------------------|--------------|--------------|--------------|--------------|----------------------|
| <b>In person</b>       | 425          | 324          | 396          | 231          | 412                  |
| <b>In writing -</b>    |              |              |              |              |                      |
| by complaint form      | 1,270        | 722          | 934          | 613          | 586                  |
| by letter through post | 682          | 1,634        | 1,599        | 1,303        | 1,002                |
| by fax                 | 978          | 972          | 615          | 863          | 836                  |
| by email               | 613          | 742          | 821          | 902          | 2,461                |
| <b>By telephone</b>    | 414          | 267          | 289          | 354          | 309                  |
| <b>Total</b>           | <b>4,382</b> | <b>4,661</b> | <b>4,654</b> | <b>4,266</b> | <b>5,606</b>         |

<sup>1</sup> Hitherto, our complaint statistics have included complaints addressed to other organizations and copied to us. This year, these “complaints to others copied to us”, previously classified “potential complaints”, numbered 508 and are not included in the figure of 5,606.

<sup>2</sup> Figures exclude “complaints to others copied to us”.

<sup>3</sup> Figures in 2006/07 exclude “complaints to others copied to us”

#### Major Causes for Complaint

The five most mentioned causes for complaint were:

- error, wrong decision/advice;
- failure to follow procedures, delay;
- negligence, omissions;
- disparity in treatment, unfairness, selective enforcement; and
- ineffective control.

The Housing Department and the Food and Environmental Hygiene Department remained the topped list of organisations most complained about. This is understandable as they provide services that directly impact on facets closest to most people’s daily life.

#### Outcome of Inquiries

**Fig. 3**

**Substantiation Figures of Complaints Concluded by Full Investigation**

| Classification                   | No. of Complaints |
|----------------------------------|-------------------|
| Substantiated                    | 15                |
| Partially substantiated          | 16                |
| Substantiated other than alleged | 1                 |
| Unsubstantiated                  | 39                |
| <b>Total</b>                     | <b>71</b>         |

**Fig. 4**

**Outcome of RAC Cases**

| Outcome                          | No. of Complaints |
|----------------------------------|-------------------|
| Remedial Action Required         | 277               |
| No evidence of maladministration | 1,211             |
| Inconclusive                     | 12                |
| <b>Total</b>                     | <b>1,500</b>      |

#### Direct Investigation

We completed four direct investigations, with 58 recommendations, and five direct investigation assessments (or “mini-direct investigations”). Two direct investigations were in progress as at the end of the year.

**Fig. 5**

**Direct Investigations Completed in 2006/07**

| Date              | Subject  |
|-------------------|--|
| 11 September 2006 | Administration of the Mid-Levels Administrative Moratorium   |
| 14 November 2006  | System for Processing of Applications for Disability Allowance by Social Welfare Department                    |
| 19 March 2007     | Monitoring of Cases with Statutory Time Limit for Prosecution by the Food and Environmental Hygiene Department |
| 31 March 2007     | Assessment of Children with Specific Learning Difficulties   |



Given their value in public education and understanding of the administration of public services, we will undertake direct investigations on a smaller scale (say, in phases) for earlier completion and publication.

## Our Performance Pledges

We again achieved our pledges fully in handling enquiries and arranging group visits and talks. As for complaint processing, we concluded over 97% of the cases under our jurisdiction within the pledged processing time of six months.

## Reward and Challenge

### Enhancing Quality Administration

We make recommendations after self-initiated or case-based investigations to help public organisations improve their administration and enhance the quality of their services. Over 93% of them have been accepted for implementation. The measures fall broadly into five areas:

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

### Safeguarding Human Rights

We hold a watching brief on citizens' rights protected by international covenants or conventions applicable to Hong Kong through handling complaints of maladministration and conducting direct investigations, in line with the role of a classical ombudsman. We pay special attention to prisoners who, being in confinement, are particularly vulnerable to abuse.

In relation to one aspect of my work that is specifically related to the civic and political rights of citizens, namely, inquiring into complaints of breach of the Government's Code on Access to Information, this year we received six complaints and one request for review of a case concluded last year. Of the five cases concluded, we considered the refusal in one case not justified.

### Addressing Systemic Issues

In handling complaints, we identify problems that appear in more than one organisation or deficiencies that are more deep rooted and systemic and draw them to the attention of the organisations concerned or to the central Administration where justified. Where they require in-depth inquiries, we conduct direct investigations.

**Joint Office on Seepage :** The trial scheme of a Joint Office with staff from the Buildings Department and the Food and Environmental Hygiene Department to deal with complaints of seepage was extended to the whole territory in July 2006. Despite the success claimed by the Administration, we continue to receive many complaints about mishandling of seepage, quite a number specifically levelled at the Joint Office and revealed deficiencies in the operation of the Joint Office. We will continue to monitor its effectiveness.

### Accountability

The trend for Government departments to contract out services has continued; so, too, the inflow of related complaints to us. We take the view that contractors remain only agents for service and departments retain the ultimate responsibility for delivery and hence are still accountable for the quality and standard of the services. A principal-agent relationship exists between the two parties. When considering complaints about poor service by contractors, we will take stock of this relationship and focus on the department's duty in monitoring the performance of the contractor.

## Revived Cases

Complainants dissatisfied with our findings or conclusions may seek a review of their cases. In the reporting period, we received 336 requests for review, compared with 361 last year. The decision on 11 cases was varied after review, compared with 13 for last year.

## Judicial Review by Complainants

This year, a complainant sought judicial review against my decision. She had complained against the Official Receiver's Office for not taking action against a trustee. After preliminary inquiries, we concluded that the Official Receiver had acted quite properly and, on that basis, closed the case. Dissatisfied with the decision, the complainant applied for judicial review. The High Court dismissed the application after hearing.

## Unreasonable Complaints

From time to time we receive complaints from persons who, although in the wrong, accuse Government of being unreasonable in taking action against their wrong deeds. In one case, the complainant had breached the law in the first place; in another, the complainant not only exploited the agency staff's accommodating attitude but actually took advantage of their leniency to make repeated unreasonable demands. We see yielding to unreasonable demands as unwise, as it will only encourage abuse and may even foster disrespect for the authorities.

## Defence from Organisations

At times, organisations disagree with our findings and conclusions. While we welcome discussions and are ready to amend our views where justified, we expect full facts to be revealed so that the issues under discussion can be put into proper perspective. This is just as important when organisations express their views publicly on our findings, so that issues are not clouded by incomplete facts or misleading figures.

## Jurisdictional Review

We have completed Part One of our review and presented a report to the Administration for consideration. We have re-examined the criteria for including public bodies in our purview and recommended some additions. We have also revisited the legislative intent for some of the restrictions on our investigative powers.

Part Two, now in progress, is devoted to surveying developments in ombudsmanship worldwide and the implications those could have on our Office.

## Office Administration

To cope with the unprecedented work pressure due to the massive influx of complaints this year, we have adjusted our staffing complement flexibly by recruiting temporary staff to supplement our regular workforce. The total strength of temporary staff recruited in the year equated to 2.4 full-time investigation staff.

With the steady turnover of staff in recent years due to the general economic revival, we have been promptly recruiting staff to restore our complement to a level geared for effective operation. For succession planning, we have recruited a few more investigation staff at the lower ranks for training and development in anticipation.

To enhance the attraction of our remuneration package for retention of young and meritorious staff, we have conducted a comprehensive review of our terms and conditions of appointment. Where necessary, suitable and realistic adjustments were made. In making such decisions, The Ombudsman has had to taken into consideration the long-term financial viability of the Office and the

need for forward planning for succession. It is crucial to strike a balance between smooth and effective functioning of the Office not just in the short-term but also in the years ahead.

## Publicity and External Relations

To promote our mission, we reach out to enhance public awareness of our functions and services. We do not only launch promotion campaigns through the media but also foster links with the community through visits, talks, publications and our Resource Centre. Meanwhile, we continue to communicate with Government departments and scheduled public organisations by meetings, seminars and workshops.

We adopted a new promotional strategy this year. We have placed greater emphasis on educating the public on what precisely is the jurisdiction of The Ombudsman and how they may lodge complaints. Instead of concentrating our multi-media publicity efforts in one core period, we split our campaign into two phases to span over four months through different channels. This arrangement was intended to facilitate evaluation of the effectiveness of the different media and to maximise the publicity impact over a longer period.

We compared the effectiveness of various publicity methods by a survey with complainants. This provided much useful insight for mapping out our future strategy for publicity and public education.

We celebrated the 10th Anniversary of The Ombudsman's Awards Scheme with more than 140 officers from about 30 Government departments and public organisations. A special "10-Year Grand Award" was presented to the Inland Revenue Department. At the same time, Hong Kong Housing Society (Grand Award), Planning Department and Post Office, and 25 public officers were acknowledged for their exemplary efforts in improving public administration, for their professionalism and positive attitude in handling complaints and for providing quality service to their clients in the past year.

In late November 2006, a ten-member delegation of the China Supervision Institute, our counterpart in the Mainland, came to Hong Kong for six days. During this period, the delegation visited a few Government departments and public organisations to sample at first-hand the legal and administrative systems of Hong Kong.

Upon invitation, The Ombudsman spoke at the "International Seminar on Reform on Prisons and Human Rights Protection" in Fuzhou of China in December 2006. The seminar was jointly organised by the Supreme People's Procuratorate of China and the United Nations Development Programme. The Ombudsman spoke on "The Ombudsman and Protection of Prisoners' Rights in Hong Kong" while other speakers, from China and Norway spoke on topics in relation to prison administration. This was The Ombudsman's first ever participation in a "human rights" seminar in the Mainland.

Fig. 6

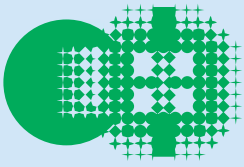
### Caseload

|  | Reporting year # |               |               |               |               |
|--|------------------|---------------|---------------|---------------|---------------|
|  | 02/03            | 03/04         | 04/05         | 05/06         | 06/07         |
| <b>(A) Enquiries received</b>  | <b>14,298</b>    | <b>12,552</b> | <b>11,742</b> | <b>14,633</b> | <b>15,626</b> |
| <b>(B) Complaints received@</b>  | <b>4,382</b>     | <b>4,661</b>  | <b>4,654</b>  | <b>4,266</b>  | <b>5,606</b>  |
| <b>(C) Complaints brought forward</b>                                  | <b>760</b>       | <b>772</b>    | <b>1,088</b>  | <b>719</b>    | <b>676</b>    |
| <b>(D) Complaints for processing = (B) + (C)</b>                       | <b>5,142</b>     | <b>5,433</b>  | <b>5,742</b>  | <b>4,985</b>  | <b>6,282</b>  |
| <b>(E) Complaints handled and concluded</b>                            | <b>4,370</b>     | <b>4,345</b>  | <b>5,023</b>  | <b>4,309</b>  | <b>5,340</b>  |
| <b>By preliminary inquiries</b>  | <b>2,172</b>     | <b>1,834</b>  | <b>1,873</b>  | <b>1,758</b>  | <b>1,643</b>  |
| By referral to complainee departments/organisations for replies (INCH) | 176              | 203           | 209           | 185           | 143           |
| By rendering assistance/clarification (RAC)                            | 1,996            | 1,631         | 1,664         | 1,573         | 1,500         |
| <b>By full investigation</b>   | <b>124</b>       | <b>284</b>    | <b>125</b>    | <b>55</b>     | <b>71</b>     |
| – Withdrawn/Discontinued   | 2                | 6             | 0             | 2             | 0             |
| – Substantiated  | 15               | 14            | 31            | 13            | 15            |
| – Partially substantiated  | 39               | 24            | 46            | 14            | 16            |
| – Unsubstantiated  | 68               | 236           | 45            | 26            | 39            |
| – Incapable of determination   | 0                | 1             | 0             | 0             | 0             |
| – Substantiated other than alleged                                     | -                | 3             | 3             | 0             | 1             |
| <b>By mediation</b>  | <b>6</b>         | <b>7</b>      | <b>6</b>      | <b>12</b>     | <b>2(6)*</b>  |
| <b>Complaints screened out</b>   | <b>1,729</b>     | <b>1,892</b>  | <b>1,948</b>  | <b>1,113</b>  | <b>2,385</b>  |
| – Restrictions   | 971              | 1,259         | 1,132         | 351           | 394           |
| – Outside jurisdiction   | 758              | 633           | 816           | 762           | 1,991         |
| <b>Complaints not pursued</b>  | <b>-</b>         | <b>-</b>      | <b>-</b>      | <b>1,371</b>  | <b>1,239</b>  |
| – Discontinued   |                  |               |               | 137           | 57            |
| – Withdrawn  | 339              | 328           | 1,071         | 147           | 164           |
| – Not undertaken@  | -                | -             | -             | 1,087         | 1,018         |
| <b>(F) Percentage of complaints concluded = (E) ÷ (D)</b>              | <b>85%</b>       | <b>80%</b>    | <b>88%</b>    | <b>86%</b>    | <b>85%</b>    |
| <b>(G) Total cases carried forward = (D) - (E)</b>                     | <b>772</b>       | <b>1,088</b>  | <b>719</b>    | <b>676</b>    | <b>942</b>    |
| <b>(H) Number of direct investigations completed</b>                   | <b>6</b>         | <b>5</b>      | <b>5</b>      | <b>4</b>      | <b>4</b>      |
| <b>(I) Direct investigation assessment</b>                             | <b>1</b>         | <b>5</b>      | <b>6</b>      | <b>6</b>      | <b>5</b>      |

# Each reporting year is from 1 April to 31 March of the next year.

@ From 2006/07, excluding "Complaints to others copied to us".

\* 6 cases attempted for mediation but not accepted by party(ies) concerned.



Summary of Annual Report

# The Ombudsman

Hong Kong

2007

