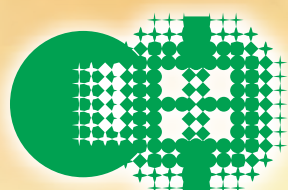




THE OMBUDSMAN
HONG KONG
20 Years On

SUMMARY OF ANNUAL REPORT
THE OMBUDSMAN
HONG KONG

2009

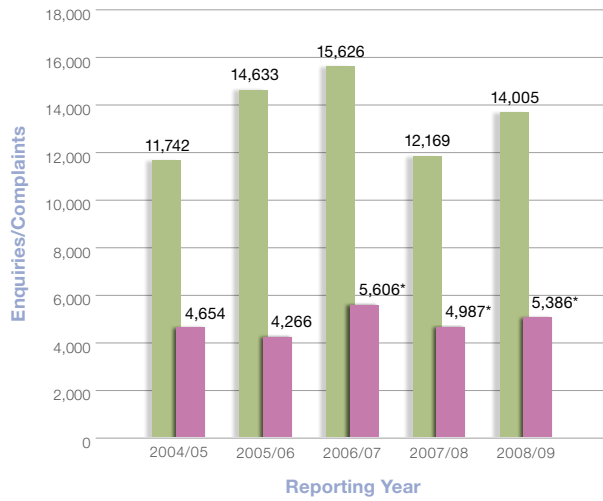


JUNE 2009

Performance and Results

Enquiries and Complaints Processing

Fig. 1 Enquiries and Complaints Received



* Figures exclude "complaints to others copied to us"

Enquiries and complaints rose yet again this year, with 14,005 enquiries and 5,386 complaints received, 15.1% and 8.0% increases respectively over last year's figures. Complaints handled and concluded this year reached a record high, at 6,671 and 5,701 respectively.

In recent years, some complaints come in groups, organised or not, triggered by social or topical issues attracting public attention or affecting a section of the community. This year, we received 853 topical complaints, most of them on two issues:

- 90 complaints on a controversial question in a public examination;
- 650 complaints on the minibond incident.

Email continued to rise in popularity for lodging complaints, replacing letter by post as the most frequently used mode. Complaints lodged by our complaint form increased sharply, from 486 last year to 1,300 this year, mostly related to minibond losses.

Fig. 2

Mode of Lodging Complaints					
Mode	2004/05	2005/06	2006/07	2007/08	2008/09
In person	396	231	412	251	370
In writing –					
by complaint form	934	613	586	486	1,300
by letter through post	1,599	1,303	1,002	1,829	936
by fax	615	863	836	753	890
by email	821	902	2,461	1,380	1,515
By telephone	289	354	309	288	375
Total	4,654	4,266	5,606[#]	4,987[#]	5,386[#]

[#] Figures since 2006/07 exclude "complaints to others copied to us".

Outcome of Inquiries

Fig. 3

Substantiation Rates of Complaints Concluded by Full Investigation		
Classification	No. of Complaints	Percentage
Substantiated	21	8.5%
Partially substantiated	171 (161)	69.2%
Substantiated other than alleged	34 (25)	13.8%
Unsubstantiated	20 (1)	8.1%
Withdrawn/Discontinued	1	0.4%
Total	247 (187)	100.0%

(Note : Figures in brackets are topical complaints)

Direct Investigation

We completed six direct investigations and four direct investigation assessments (or "mini-direct investigations"). Six other direct investigations were in progress.

Fig. 4

Direct Investigation Reports Completed in 2008/09	
Date	Subject
23 June 2008	Effectiveness of the Integrated Call Centre in Handling Complaints
15 December 2008	Control of Roadside Banners
15 December 2008	Prevention of Abuse of Special Grants under the CSSA Scheme
17 December 2008	Government Measures for Street Management
23 March 2009	Support Services for Students with Specific Learning Difficulties
24 March 2009	Free Admission Scheme for Leisure Facilities from July to September 2008

Recommendations

Full investigation of 60 cases (excluding topical complaints) and six direct investigations resulted in 85 and 68 recommendations, to address specific and systemic deficiencies respectively. So far, 118 (77.1%) have been accepted by the organisations for implementation and 35 (22.9%) are still under consideration. None has been rejected.

Our Performance

Fig. 5

(a) Response Time for Acknowledgement/Initial Assessment			
Year	Response Time		
	Within 5 working days (target: 80%)	Within 6-10 working days (target: 20%)	More than 10 working days
2008/09	99.8%	0.18%	0.02%

(b) Processing Time for Cases Outside Jurisdiction or Under Restriction

Year	Response Time		
	Within 10 working days (target: 70%)	Within 11-15 working days (target: 30%)	More than 15 working days
2008/09	77.2%	19.6%	3.2%

(c) Processing Time for Other Cases Concluded

Year	Response Time		
	Less than 3 months (target : 60%)	Within 3-6 months (target : 40%)	More than 6 months
2008/09	65.9%	32.3%	1.8%

Reward and Challenge

Addressing Systemic Issues

The lack of inter-departmental coordination has remained the most noticeable underlying cause for systemic problems, as manifested in a number of issues.

Seepage and Joint Offices

Set up by Government since 2006, with staff from the Buildings Department and the Food and Environmental Hygiene Department, the Joint Offices Scheme aims to offer a “one-stop service” for seepage complaints. However, its loose organisation and exclusion of the Water Services Department have resulted in serious problems of coordination. We have recommended *inter alia* that Government address these problems and define Government’s role and property owners responsibility.

Street Management

A major source of complaint, street management is a graphic example of poor coordination, falling between the enforcement jurisdiction of several departments with none the obvious authority. We consider the matter best tackled within the District Administration Scheme.

Inadequate Planning

A number of Government programmes reflected inadequate planning: e.g. the Free Admission Scheme for leisure facilities from July to September 2008 to celebrate the Olympics. This prompted us to initiate a direct investigation and our findings should offer useful reference for the planning and execution of similar initiatives in future.

Inflexibility and Bureaucracy

Blind adherence to set procedures can often cause problems. Efficient and effective service must be client-centred. In one case, a seriously disabled elderly woman did not get renewal of her disability allowance due to poor health and inability to complete the necessary procedures. Then she passed away, Social Welfare Department (“SWD”) still

insisted on not granting the renewal earlier due to her unless her daughter could secure her formal medical assessment. By sheer persistence, we managed to persuade the hospital to produce an assessment report eventually and SWD to pay out the allowance to the woman’s estate. We believe that, had SWD exercised greater flexibility and taken greater initiative in liaising with the Hospital Authority, the matter could have been resolved earlier.

Abuse of System

We have commented in the past on persistent complainants attempting to abuse the complaint system to pressurise organisations into compliance or even to pursue their selfish ends. We adhere firmly to our principle of impartiality and objectivity. Regrettably, some organisations had that acted proper would succumb, quite wrongly, to unreasonable demands upon our inquiries into complaint. We operate without fear or favour. We investigate to establish the facts.

Code on Access to Information

This Code has been in force since 1995/96 to promote open, transparent and accountable Government. Yet, from some complaints, we see gross misunderstanding or sheer ignorance of it among Government departments. To assist Government, we have initiated a direct investigation on this in February 2009.

Challenge from Parties

Re-assessment and Review of Cases

If a complainant provides new information to support his allegations, we will revisit the case. After re-assessment, we may uphold the original decision or where warranted re-open the case. During the year, we received 225 requests for re-assessment, with 64 re-opened for inquiry.

Similarly, where complainants are dissatisfied with our findings or conclusions, we will review if warranted. Of 246 requests for review, the decision was varied in seven cases.

Occasionally, complainants make allegations against our investigation officers for bias, poor conduct or lack of thoroughness. The head of office administration will process the complaint independently for The Ombudsman’s decision.

Judicial Review

As The Ombudsman’s decision on a case is final, individuals or organisations not satisfied with the decision may request review by The Ombudsman or seek a judicial review by the Court. During the year, three complainants applied for judicial review but none obtained leave from the High Court.

Jurisdictional Review

This review, in two parts, was presented to the Administration in November 2006 and November 2007. As of end of March 2009, the Administration was preparing to put their views to the Legislative Council.

Office Administration

Delinking from Government systems and practices in December 2001 was a landmark in 20 years of ombudsmanship in Hong Kong. The Ombudsman is now a corporation sole with full autonomy for administrative, financial and operational systems and activities as well as powers for independent investigation.

External Relations

We acknowledged meritorious public organisations and their officers who for exemplary handling of complaints and improving public administration with our Ombudsman's

Awards. In October 2008, The Ombudsman presented Awards to the Immigration Department (Grand Award), the Food and Environmental Hygiene Department and the Department of Health, and 21 public officers.

In early November 2008, our Office hosted the annual International Ombudsman Institute ("IOI") Board of Directors Meeting. After the Board meeting, The Ombudsman led the delegation to visit the Commission Against Corruption of Macao and the Ministry of Supervision of China upon their invitation.

Hong Kong has continued to enjoy recognition and cordial relations from international and regional ombudsman institutions.

Fig. 6 Caseload

	Reporting year [#]				
	04/05	05/06	06/07	07/08	08/09
(A) Enquiries received	11,742	14,633	15,626	12,169	14,005
(B) Complaints received[@]	4,654	4,266	5,606	4,987	5,386 [853]
(C) Complaints brought forward	1,088	719	676	942	1,285
(D) Complaints for processing = (B) + (C)	5,742	4,985	6,282	5,929	6,671
(E) Complaints handled and concluded	5,023	4,309	5,340	4,644	5,701 [1,225]
(i) Complaints pursued	2,004	1,825	1,716	1,977	2,684 [411]
By preliminary inquiries	1,873	1,758	1,643	1,938	2,437 [224]
By referral to complainee departments/ organisations for replies (INCH)	209	185	143	81	148
By rendering assistance/clarification (RAC)	1,664	1,573	1,500	1,857	2,289 [224]
By full investigation	125	55	71	38	247 [187]
- Withdrawn/Discontinued	0	2	0	1	1
- Substantiated	31	13	15	9	21
- Partially substantiated	46	14	16	13	171 [161]
- Unsubstantiated	45	26	39	14	20 [1]
- Inconclusive [^]	0	0	0	0	0
- Substantiated other than alleged	3	0	1	1	34 [25]
By mediation	6	12	2(6*)	1(3*)	0(0*)
(ii) Complaints screened out	1,948	1,113	2,385	1,246	1,108 [100]
- Restrictions	1,132	351	394	375	477 [76]
- Outside jurisdiction	816	762	1,991	871	631 [24]
(iii) Complaints not pursued	1,071	1,371	1,239	1,421	1,909 [714]
- Discontinued	-	137	57	436	110 [38]
- Withdrawn	-	147	164	157	245
- Not undertaken [@]	-	1,087	1,018	828	1,554 [676]
(F) Percentage of complaints concluded = (E) ÷ (D)	88%	86%	85%	78.3%	85.5%
(G) Total cases carried forward = (D) - (E)	719	676	942	1,285	970
(H) Number of direct investigations completed	5	4	4	4	6
(I) Direct investigation assessment reports produced	6	6	5	2	4

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

[@] From 2006/07, these exclude "complaints to others copied to us".

[^] Previously "Incapable of determination".

* Number of cases attempted for mediation but not accepted by party(ies) concerned.

[] Figures represent the number of topical cases (not available before 2008/09).