

For information
on 26 April 2001

**Legislative Council Panel on
Administration of Justice and Legal Services**

Delinking of the Office of The Ombudsman from the Administration

Purpose

This paper informs Members of the proposed amendments to The Ombudsman Ordinance (Cap. 397) to formalise the delinking of the Office of The Ombudsman (the Office) from the Administration and the plan of the Office to acquire its permanent office premises.

Delinking of the Office from the Administration

2. Starting from April 2001, the Office is "delinked" from the Administration as a step forward in enhancing its independent status. The Ombudsman will establish its own human resource management and financial and accounting systems, formulate staff recruitment policies and put in place a complete code of practice on complaints handling to ensure continuity and quality of service provided by new contract appointees. The Office will gradually replace the civil servants serving on secondment to the Office by contract staff. It is anticipated that the 74 (i.e. some 82% of the total staff) serving civil servants in the Office will be released by phases over the next 24 months.

3. Following delinking, The Ombudsman will have the flexibility to procure administrative and support services from the market as appropriate. For example, private legal services may be procured by The Ombudsman to help overcome possible conflicts that might arise in complaint cases against the Government departments. The Ombudsman will also set up its own accounting office to ensure proper financial management independent from the central support services provided by the Government.

4. As regards financial arrangements, the Office operates on a subvention basis with effect from 1 April 2001 and The Ombudsman will continue to be designated as the Controlling Officer for the estimates of expenditure. Whilst the Office enjoys greater flexibility in resource

management resulting from the lump-sum funding arrangement, it will be subject to the necessary accounting and auditing requirements in line with other publicly funded organizations. In addition, the Office will continue to be subject to the examination by the Director of Audit. Apart from the one-off cost of setting up a temporary commissioning team, establishing accounting and human resources systems, conducting executive search and placing advertisements for employing contract staff in 2001-02, the delinking exercise is cost-neutral. Future requests for additional resources by the Office will be dealt with through the annual Resource Allocation Exercise, as with other publicly funded organisations.

Amendments to The Ombudsman Ordinance (Cap. 397)

5. To formalize the delinking exercise, a number of amendments to The Ombudsman Ordinance will be required. We also propose to take the opportunity to further safeguard and regularize the effective operation of The Ombudsman. To underline the independent operation of The Ombudsman, new legislative provisions will be required to -

- (a) establish The Ombudsman as a corporation sole capable of taking or defending civil actions;
- (b) clarify that The Ombudsman and her staff are not servants or agents of the Government;
- (c) empower The Ombudsman to acquire, hold or dispose of property, to enter into contracts and to charge fees;
- (d) protect The Ombudsman and her staff from personal civil liability in the performance of the functions of The Ombudsman in good faith;
- (e) impose upon The Ombudsman the responsibility to prepare proper accounts, appoint an auditor and to subject the Office to the examination of the Director of Audit;
- (f) make clear that The Ombudsman will be designated the Controlling Officer for the purpose of the Public Finance Ordinance; and
- (g) put The Ombudsman and her staff under the same control of the Prevention of Bribery Ordinance as applicable to other major statutory bodies.

6. Other minor and technical amendments will also be included to regularize and facilitate the better performance of the functions of The

Ombudsman. For example, new provisions are proposed to -

- (a) put beyond doubt the power of The Ombudsman to appoint advisers in areas such as legal, medical and engineering fields to assist in the carrying out of the duties of the Office;
- (b) provide the legal basis for the Office to conduct preliminary inquiry to determine whether to undertake an investigation, and to deal with complaints by mediation. It has been the practice of The Ombudsman to dispose of complaints, which are minor and more straightforward in nature, through such cost-effective means of dispute resolution;
- (c) amend section 13(3) to clarify the coverage of this provision. Section 13(3) of The Ombudsman Ordinance is concerned with the obligation of public officers to provide information to The Ombudsman for the purpose of an investigation, despite any secrecy provision imposed by law. We will need a technical amendment to replace the reference to "public officers" by "an organization" to which the Ordinance applies to properly reflect the ambit of The Ombudsman;
- (d) extend the jurisdiction of The Ombudsman to cover the Equal Opportunities Commission and the Privacy Commissioner for Personal Data.; and
- (e) overcome the technical constraint placed on The Ombudsman in the publication of investigation reports as long as the identity of the persons under investigation is not disclosed.

Acquisition of Permanent Office Accommodation

7. The Office of The Ombudsman is currently housed in leased premises and requires additional space for expansion in medium planning terms. In the longer term, it would be more cost-effective for the Office to be accommodated in its own premises.

8. The Ombudsman proposes to purchase and fit out some 2 200 square metres (net usable area) of general office accommodation in a convenient location, at a total estimated cost of up to \$187.6 million in money-of-the-day (MOD) prices.

9. To help facilitate an independent image, the Office has all along been accommodated in commercial buildings and not in

government buildings. The Office first moved into the 31st floor of Tower One in Gateway in Tsimshatsui in 1995. Over the years, additional offices on different floors were leased to cope with expanded activities. Because of the building's low vacancy rate, The Ombudsman's staff could not be accommodated together, and the Office is now scattered over four different floors of the building. With identified need for the Office to expand further, the situation is expected to worsen. The possibility of acquiring permanent accommodation for The Ombudsman was raised during the course of negotiations of the delinking exercise. The existing lease for the Gateway premises will expire in October 2001. The Ombudsman will need to take a view quickly on whether the proposal to purchase office accommodation for the Office should be pursued as this will affect whether the existing lease should be renewed, extended or terminated.

10. Experience has shown that constructing or purchasing office premises is more economical and cost-effective in the long term than leasing. This is because owned premises provide security of tenure and protection from rent increase.

11. In the light of the current market situation for office premises, The Ombudsman intends to purchase and fit out a permanent accommodation for the Office. The space to be acquired should meet the Office's current and medium-term operational requirements. To facilitate its service for the public, the premises should be reasonably conveniently located with good access to public transport. Furthermore, as The Ombudsman is a member of both the Board of Directors of the International Ombudsman Institute and the Asian Ombudsman Association, and there are regular international visitors to the Office, location and standard of the accommodation to be acquired should be commensurate with Hong Kong's status in the international scene.

12. According to the Government Property Administrator (GPA), the current market prices for Grade A office accommodation premises in convenient urban areas (e.g. Central District, Wanchai and Tsimshatsui) range from between \$60,000 to \$100,000 per square metre. At a target unit rate of \$75,000 per square metre for 2 200 square metres, the total ceiling-figure expenditure for the proposed purchase will be \$165 million. A summary of the total space requirement is at the Annex. The schedule of accommodation is in accordance with the space standards for the civil service and has been vetted and confirmed by GPA.

13. The Director of Architectural Services will provide the necessary resources to take charge of the design and fitting out work to ensure that the fitting-out work can be completed in time to tie in with the ending date of the current lease. The fitting-out of the new office will be strictly in accordance with government standards, at a level similar to the existing leased office premises.

14. The total estimated cost for the whole project is about \$187.6 million, made up as follows -

	\$ million
(a) Purchasing 2 200 square metres net of accommodation	165.0
(b) Purchasing two parking spaces	2.6
(c) Design and fitting-out	17.6
(d) Furniture and equipment	<u>2.4</u>
Total	<u>187.6</u>

15. We estimate the annual recurrent expenditure arising from the proposal to be \$1.9 million, for the provision of management and air-conditioning services. In the current market conditions, we anticipate the payback period for the investment will be in the region of 18 years.

16. Subject to the approval of the Public Works Subcommittee and the Finance Committee, The Ombudsman will proceed with the office acquisition plan. A short extension of the current lease may be necessary to cope with possible slippage that may occur during the purchasing and fitting-out processes.

Way Forward

17. The Administration plans to introduce The Ombudsman (Amendment) Bill 2001 within the current legislative session to underpin the delinking exercise. Separate approval of the Public Works Subcommittee and the Finance Committee will be sought on The

Ombudsman's plan to acquire permanent office accommodation.

18. Comments from Members on the above proposals are welcome.

Administration Wing
Chief Secretary for Administration's Office
April 2001

Space Requirements of the Office of The Ombudsman

(Net Usable Area)

	Existing Accommodation m ²	Leased Requirement m ²	Long-term Requirement m ²	Notes
(A) Staff				
Existing staff (90 posts)	995	995		
New posts	28	175		(1)
Total area for staff	1,023	1,170		
(B) Ancillary Areas				
Reception area	40	40		
Interview rooms	35	35		
Mediation room	20	30		(2)
Meeting room	20	20		
Conference-cum-briefing room	170	170		
Small library for internal use	30	45		(3)
Resource Centre	100	100		
Classroom for group visitors/Waiting area for group complainants	65	65		
Server room	30	40		(4)
Server hubs for other floors	5	5		
General and personnel registry	45	45		
Store room	40	40		
Store room for publications	30	40		(5)
Store room for complaint records	70	125		(6)
Telephone room	5	10		(7)
Pantry	13	13		
Rooms for Advisors	-	20		(8)
Small mediation room	-	10		(9)
Machine room for publications	-	10		(10)
S/I booth for conference room	-	15		(11)
Training centre	-	25		(12)
Total ancillary area	718	903		
Total staff and ancillary area (A)+(B)	1,741	2,073		
Add:5% for expansion	-	104		(13)
Total net floor area	1,741	2,177		
		<i>(say) 2,200</i>		

Notes

1. The new posts include one Accountant, four Complaints Assistants, seven temporary Senior Complaints Officers and five temporary Case Officers. It is our plan to employ temporary staff to clear backlog from time to time.
2. The existing mediation room is only able to accommodate 10 to 12 persons. A larger mediation room is required to accommodate more people in case the complaints involve several departments and a number of complainants.
3. Additional space is required for placing the publications of this Office, including Annual Report and Direct Investigation Reports for reference by the officers. In addition, at present, only officers at Chief Executive Officer level and above and a few officers with operational needs have access to Internet. 2 common terminals should be placed in the library for other officers to search the information from the Internet.
4. Additional space is required for the additional servers for Government Common Applications System, Confidential Mail and Software Asset Management System, etc. The space requirement has been vetted by the Director of Information Technology Services.
5. Additional storage space is required for storage of publications published by the Office, such as, the Annual Reports and Direct Investigation Reports and also the publicity materials.
6. Additional storage space is required for storage of increasing complaint records. The annual growth rate is around 10m² per year. In the long-term, the Office will explore more economical storage methods, such as, leasing of private storage space.
7. Additional space is required for the new Interactive Voice Response System (IVRS) and storage of recorded tapes.
8. Two rooms are required as working areas for honorary legal and medical advisors.
9. One small mediation room is required for mediated parties to hold private discussions. As the size of each party ranges from 2 to 6, an area of 10m² is required for each room. Separate mediation room is required as the meeting room is usually occupied for both regular and adhoc internal divisional or team meetings.

10. A machine room is required for producing office publications, such as the Ombuds News, pamphlets and publicity materials for the workshops and seminars. The equipment include duplicator, color photocopier, sorter, laminator and binding machine.
11. An S/I booth is required for the conference room for holding talks, seminars and workshops.
12. The training centre will be equipped with 5 PCs for providing induction training to new recruits as well as on-going training to serving staff including language, writing skill, computer skill training and training on the Complaints Management System.
13. A 5% allowance for future expansion is included in the overall space requirement to enable this Office to cope with its operational requirements in the next five to seven years.