

立法會
Legislative Council

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**Paper for the House Committee meeting
on 15 December 2000**

Follow up on recommendations by The Ombudsman

Purpose

This paper reports on the concern expressed by Members during a recent meeting with the Ombudsman regarding complaint cases in which recommendations in reports by the Ombudsman have not been implemented fully by the Administration. In such cases, alternative measures proposed by the Administration have been accepted by the Ombudsman, but the problems remain unresolved.

Meeting on 5 December 2000

2. At a meeting between Members and the Ombudsman on 5 December 2000, Members expressed concern on complaint cases in which the Ombudsman had made recommendations for rectification pursuant to investigations on allegations of maladministration, but the Administration had either implemented such recommendations partially or adopted alternative measures on account of resource or policy constraints, and the Ombudsman had accepted the measures thus taken and decided to take no further action. Members were concerned that despite the Ombudsman considering the grievances valid and making specific recommendations for rectification, the Administration had not made due efforts to implement those specific recommendations, and persons aggrieved were left with their problems outstanding.

3. The Ombudsman explained at the meeting that she did monitor the progress of implementation of her recommendations on a quarterly basis. About 5% of the recommendations were not implemented in full or were rejected by Government departments due to resource and policy constraints, and some departments might propose alternative remedial or improvement measures. If the Ombudsman considered that the proposed alternatives could achieve the effect of preventing recurrence of problem in future, then even if that alternative did not represent redress to the complaint, she might accept the compromise although it only constituted partial implementation of the recommendation contained in the original report. Otherwise, she would consider submitting reports to the Chief Executive as provided for in The Ombudsman Ordinance (Cap. 397). The Ombudsman stressed that while her duty was to make judgments regarding administrative decisions and procedures, her judgments were not binding on the Administration or the organizations affected, and she had no power to substitute her decisions for those of officials.

4. Members noted that the complaint case which gave rise to the above concern had also been brought to the attention of Members under the LegCo Redress System, and a case conference had been held with the Administration who, however, had maintained its position. Members who attended the meeting with the Ombudsman on 5 December 2000 considered partial implementation as an unsatisfactory compromise when the complainant's grievance had not been redressed, and decided to put the matter to the House Committee for discussion.

Discussion at previous meeting

5. Members may wish to note that similar concern had in fact been raised at a meeting between Members and the Ombudsman in June 2000. The Ombudsman then advised in response to Members that she could submit reports to the Chief Executive if she considered that her recommendations had not been adequately acted upon, and one report, on the subject of unauthorized building works, had so far been submitted to the Governor in 1995 in accordance with section 16(3) of The Ombudsman Ordinance. To follow up on policy matters, the Ombudsman suggested that Members could either ask questions at Council meetings or pursue the matters in LegCo panels. She was of the view that the various channels, i.e., her Office acting as an independent body responsible for making recommendations on complaint cases, and the Administration and Members undertaking follow up actions as appropriate, could complement each other and were all important components of the framework of democracy.

Advice sought

6. Members are invited to advise how this matter can be taken forward.

Complaints Division
Legislative Council Secretariat
13 December 2000