

立法會  
*Legislative Council*

LC Paper No. CP 495/02-03  
(These minutes have been seen  
by The Ombudsman)

Ref.: CP/G06/4 (VII)

**Legislative Council Members' meeting  
with Ms Alice TAI, JP, The Ombudsman,  
held on Tuesday, 10 December 2002, at 11:00 am  
in Conference Room A of the Legislative Council Building**

**Members Present** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP (Chairman)  
Dr Hon David CHU Yu-lin, JP  
Hon Cyd HO Sau-lan  
Hon Martin LEE Chu-ming, SC, JP  
Hon NG Leung-sing, JP  
Hon LAU Kong-wah  
Hon Emily LAU Wai-hing, JP  
Hon LI Fung-ying, JP  
Hon Michael MAK Kwok-fung  
Hon IP Kwok-him, JP  
Hon LAU Ping-cheung  
Hon Audrey EU Yuet-mee, SC, JP

**Attendance by  
Invitation** : Office of The Ombudsman

Ms Alice TAI, JP  
The Ombudsman

Mrs Isabella WONG FUNG Pui-han  
Principal Executive Officer

**Staff in Attendance:** Deputy Secretary General  
Mr LAW Kam-sang, JP

Mrs Vivian KAM  
Principal Assistant Secretary (Complaints)

Ms Erin TSANG  
Senior Assistant Secretary (Complaints)<sup>4</sup>

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**I. Chairman's opening remarks**

The Chairman welcomed Ms Alice TAI, The Ombudsman, and Mrs Isabella WONG FUNG Pui-han, Principal Executive Officer of the Office of The Ombudsman, to the meeting. She said that the purpose of the meeting was for The Ombudsman to brief Members on the work of the Office of The Ombudsman (the Office), and for both parties to exchange views on issues of mutual concern.

**II. Matter arising from the last meeting on 5 December 2001**

Remuneration package of staff  
(LC Paper No. CP 176/02-03(03))

2. The Ombudsman briefed the meeting on LC Paper No. CP 176/02-03(03). In gist, The Ombudsman said that consensus had been reached with the Administration that the terms and conditions of service for the Office's staff should be no better than those for comparable grades in the civil service; this would be stipulated in the Memorandum of Administrative Arrangements. The Ombudsman had taken advantage of the delinking exercise to review and simplify the pay scales and fringe benefits of the Office's staff based on the "no better than" principle. Following the Government's lead in reducing the entry pay points of benchmark ranks, she had also made similar adjustments to all other related ranks. The new pay scales were about 10% to 24% lower than the old scales. Moreover, the Office had abolished annual increments and staff would receive a fixed salary throughout their contract period. To simplify the remuneration package, a cash allowance was offered to replace the different types of fringe benefits such as overseas education allowance, housing allowance etc., payable to civil servants. In addition, the Office had simplified the staffing structure by combining some ranks.

3. Ms Emily LAU expressed concern at whether The Ombudsman would have difficulties in recruiting staff when faced with constraints imposed by the "no better than" principle in offering employment contracts to prospective candidates and determining their remuneration packages. The terms and conditions of service offered by the Office might not be able to attract people of high calibre.

4. In response, The Ombudsman advised that each recruitment exercise attracted many applicants, some with outstanding qualifications. Last year, the Office appointed several investigation officers with professional qualifications. She stressed that so far the Office had not encountered particular difficulties in the recruitment and retention of staff. At Members' request, The Ombudsman undertook to provide after the meeting information in writing on the comparison of remuneration for civil servants and staff of the Office at the corresponding ranks of Chief Executive Officer and Directorate Officer Grade II for Members' reference.

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5. In reply to Ms Emily LAU's further enquiry, The Ombudsman advised that since the appointment of the Office's own contract staff and the establishment of an independent staffing and administrative system in April 2001, civil servants on secondment to the Office had gradually returned to the Government. About 50 civil servants had returned to Government departments this year.

6. On the enquiries by Mr NG Leung-sing and Ms LI Fung-ying on the lowering of the pay scales by 10% to 24%, The Ombudsman advised that the new pay scales were applicable only to staff appointed since April 2001. The old pay scales would continue to apply to staff appointed before April 2001, unless they were promoted to a higher rank or appointed to another rank, in which case the new remuneration package applicable to their new ranks would apply.

7. In this connection, the Chairman and Ms LI Fung-ying expressed concern that a staff might, despite promotion to a higher rank, receive a lower salary as a result of the substantial reduction in the new pay scales. The Ombudsman said that this was theoretically possible and because of this, when a staff member on the old terms was promoted, the Office would take into consideration his current remuneration package when determining his pay point under the new pay scale. The objective was to ensure that the total remuneration he would receive in the new post during the three-year contract period would not be less than that received in the previous contract period.

8. In response to Ms LI Fung-ying's enquiry on whether the appointment and remuneration package of the Office's staff were at the entire discretion of The Ombudsman, The Ombudsman pointed out that under The Ombudsman Ordinance (Cap. 397), she was empowered to appoint all staff and determine their salaries and conditions of service, but in practice the Office had in place an objective selection system to prevent nepotism. The Administration and Development Division of the Office was responsible for administering and supervising the Office's appointment system. This Division would carry out the initial screening of applicants, e.g. academic qualifications and relevant working experience. Shortlisted candidates were required to attend both Chinese and English written tests, as well as interviews. The Division, assisted by other senior officers on a rotation basis, would then assess candidates' performance in the written tests and interviews, with a view to making recommendations for consideration by The Ombudsman.

9. Mr Michael MAK was concerned that the abolition of annual increments might not provide sufficient incentives to staff and this would in turn be detrimental to the Office's work quality. The Ombudsman pointed out this should not be an issue because before accepting appointment, her staff would all know that there would be no increments during the contract period. Staff would also be aware that contract renewal would depend on performance and that this should provide sufficient incentive for them to deliver quality work. In this regard, Mr David CHU opined that the Office could consider lowering slightly

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the respective starting points under the new pay scales so as to allow for the provision of annual increments to staff. This would help boost their work incentives to a certain extent.

**III. Briefing by The Ombudsman on the work of The Ombudsman's Office**

(LC Paper No. CP 176/02-03(04))

10. The Ombudsman briefed the meeting about this item on the basis of information contained in LC Paper No. CP 176/02-03(04).

Workload

11. In reply to Mr IP Kwok-him and Mr David CHU as to whether there was an upward trend in the number of complaints received by the Office, The Ombudsman advised that for the 2001/2002 reporting year which covered 10.5 months between May 2001 to March 2002, the Office received a total of 3 736 complaints, which were more than those received (3 709) for the entire period in the preceding year. The number of complaints received was related, to a certain extent, to whether major events had occurred in society which aroused public dissatisfaction. As such, it would be difficult to predict whether there would be an upsurge in the number of complaints received by the Office. But on the basis of an average of 402 complaints received each month during the first eight months of 2002/2003 (i.e. between April and November 2002), as compared to the average of 357 cases per month in 2001/2002, she would expect the number of this year's complaints to rise.

12. Mr David CHU questioned whether increasing complaints reflected poor performance of Government departments, increasing expectation of the public or quality services provided by the Office with widespread publicity. In addition, Mr CHU, Mr IP Kwok-him, Mr LAU Ping-cheung and Mr Michael MAK were concerned with how the Office could cope with the increasing workload.

13. In response, The Ombudsman pointed out that apart from the above factors mentioned by Mr CHU, negative public sentiments also contributed to an increase in complaints. It would, in any case, be difficult to generalize on the reasons for the increase. To cope with the workload, the Office would re-engineer and simplify work procedures, engage temporary case officers with extensive experience in public administration to help tide over peak periods of workload increase. She emphasized that such arrangement if used flexibly would not impose significant financial burden because there would be no increase in permanent establishment. In reply to Mr Michael MAK, The Ombudsman advised that, despite her anticipation that the Government would, in line with reduction in public spending, seek to reduce the budget of the Office for the coming years, the Office would not need to lay off staff on budgetary grounds.

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14. However, Mr Michael MAK was concerned that despite assurance of job security, staff morale might be affected by the increasingly heavy workload. The Chairman and Mr MAK recognized that increasing workload and a reduced budget might have implications for the Office's performance pledges.

15. The Ombudsman stressed that despite heavy workload, staff morale remained high and the quality of work remained unaffected. Currently, the performance pledges of the Office laid down target response time for complaint handling. For example, the Office's staff had to reply to a written enquiry within five working days; complete an initial assessment and issue an acknowledgement letter for a complaint within five working days; and issue a reply letter for a case outside the jurisdiction of the Office or under restriction with detailed reasons for declining investigation within 10 working days. She said that owing to the heavy workload, she could not rule out the possibility of a longer processing time of cases. However, at this stage, the Office would try to adhere to the existing target response time. With the Office's efforts to re-engineer its work procedures and employ temporary case officers at critical periods, she was confident that the Office would be able to cope with the heavy workload.

16. However, Mr Michael MAK opined that the Office should not concentrate only in the handling of complaints. Rather, it should be more proactive in improving the quality and standard of public administration with a view to alleviating the dissatisfaction of the public and reducing the Office's workload as a result. In reply, The Ombudsman stated that this was indeed the objective of her work. The mission of the Office was to redress grievances and address issues arising from maladministration in the public sector and, through independent, objective and impartial investigations, to bring about improvement in the quality and standard of public administration with a view to reducing the number of complaints. Apart from publishing "The Ombudsman Guide to Good Standards of Customer Service for Public Officers", the Office organized annual complaint management workshops to encourage experience sharing and to enhance the professionalism of staff of Government departments and public organizations in their handling of complaints.

Staff recruitment

17. On recruitment, The Ombudsman advised that 63 contract staff (60% of the Office's establishment) had been recruited to replace civil servants seconded to the Office. It was envisaged that the replacement of all civil servants by contract staff would be completed in 2003/2004.

18. Mr LAU Ping-cheung enquired about the criteria adopted to recruit staff, and whether freelancers would be employed if staff of the Office did not have the necessary expertise/knowledge to handle certain cases.

19. The Ombudsman said that given the nature of work, people with experience in public administration, investigation, or with legal background were

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considered as having relevant experience to investigation work. There was no need to specialize at the recruitment stage because the Office had panels of advisers specializing in different disciplines from whom advice could be sought when handling complaints/enquiries requiring specialist knowledge.

20. Mr LAU Ping-cheung raised concern on whether there would be manpower mismatch if the Office had to retain the staff responsible for a particular type of complaints as long as their contracts had not expired even if the number of the particular type of complaints had dropped significantly. The Ombudsman said that in principle her staff had to handle every type of complaints filed with the Office. The problem of manpower mismatch and, consequential superfluous expertise, would not arise.

Office accommodation

21. Ms Emily LAU noted from the information provided by The Ombudsman in LC paper No. CP 176/02-03(04) that the cost for the purchase of office accommodation was lower than the provision originally sought by the Office. She enquired if this was due to the downward adjustment of property prices.

22. The Ombudsman said that drop in property prices was one factor, other factors such as a 10% reduction in the floor area purchased, the timing of the purchase as well as effective negotiation on price all contributed to the reduced expenditure on the purchase of office accommodation. However, because the building was old, despite the simple design and frugal standards for furnishing the new office, considerable amount had to be spent on essential works such as re-wiring. She also referred Members to the item "furniture and equipment", and clarified that the estimated expenditure should be \$1.38 million, and not \$1.8 million as stated in the paper. In addition, The Ombudsman advised that she had considered Members' earlier suggestion for the Office to oversee directly the fitting-out project. Having looked into that possibility and after concluding that the Office lacked the expertise to monitor fitting-out works, she finally decided to use Architectural Services Department (ASD) to supervise the tendering and subsequent works of fitting out the new office premises. At Members' request, The Ombudsman undertook to provide, after the meeting, written information on whether in addition to the cost outlined in paragraph 7 of LC paper No. CP 176/02-03(04), ASD had charged the Office for project management services it rendered.

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*(Post-meeting note: In a letter to the Chairman dated 2 January 2003, The Ombudsman confirmed that ASD did not charge The Ombudsman for service rendered in respect of the fitting out project.)*

23. Ms Emily LAU asked why the floor area purchased was smaller than the approved area. The Ombudsman said that ownership of Shun Tak Centre was fragmented and she could only consider what was available on the market. Ideally she would have preferred accommodation on two adjoining floors, but

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she was not prepared to pay what she considered to be inflated price for adjoining accommodation. Availability and price were the two overriding considerations in her decision and the purchase price paid by the Office were record lows for both towers in question. She admitted that the under-provision was not ideal but the Office would cope.

24. Mr IP Kwok-him was concerned that the new office, which was split between two towers in Shun Tak Centre, might not be conducive to efficient operation. The Ombudsman agreed that it would indeed be desirable for the Office to be located on adjoining floors. But this option would cost a lot more. Being prudent in spending public money, she eventually decided to purchase premises in another tower at an even more competitive price to accommodate the administration units, and try to overcome the inconvenience of operating from two towers by technology, e.g. video-conferencing.

#### **IV. Discussion items raised by Members**

##### **(a) Recording of Government department hotline conversations (LC Paper No. CP 176/02-03(05))**

25. Ms Emily LAU noted the information provided by The Ombudsman on this item (LC paper No. CP 176/02-03(05)). She enquired whether the Office would record telephone conversations with complainants.

26. The Ombudsman advised that the telephone system of the new office had recording functions, and her staff would decide on their own on the need for their telephone conversations with complainants to be recorded. In general, taping conversations would be helpful in certain potentially difficult situations or for emotionally charged clients as this would provide an impeccable source of evidence for verification of whether the complaints had been appropriately handled. All telephone complaints were recorded. Complainants would be informed that their calls were being recorded.

27. Ms Audrey EU expressed concern on how a situation would be dealt with if a complainant did not consent to the recording of his telephone conversation by the Office. The Ombudsman advised that in the circumstances, her staff would suggest to the complainant to consider lodging his complaint in writing or in person. Where a complainant was abusive, staff could use discretion to terminate the call.

28. As to whether Government departments should record their hotline conversations, The Ombudsman advised that it depended very much on whether the heads of departments considered this necessary. Nevertheless, as mentioned above, if a client (such as a member of the public seeking assistance) became emotionally unstable, a taped conversation could provide an objective and impeccable source of evidence for future verification of allegations raised by the client, especially those involving staff manners.

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**(b) Abuse of The Ombudsman system**  
(LC Paper Nos. CP 176/02-03(06)-(09))

29. Ms Cyd HO referred to the Annual Report of The Ombudsman, Hong Kong (the Annual Report) published in June 2002, in which The Ombudsman stated that “many complaints are lodged by citizens intent on getting their pound of flesh from public servants... Regrettably, some complainants have their own agenda and ‘use’ my Office (the Office) to press for their own desired outcome.” She was concerned that in the absence of supporting data, such remarks made by The Ombudsman might mislead Government departments and public organizations into believing that the Office consented to their inaction towards requests for assistance from members of the public. Moreover, staff of departments/organizations concerned (such as the Housing Department and the Social Welfare Department) might even find it confusing as to whether their exercise of discretion might be reproached by the Office as giving in to pressure, which constituted another form of maladministration. Ms HO was particularly concerned about cases involving the Correctional Services Department listed in tables 3 and 9 in the Annual Report.

30. Ms Emily LAU shared Ms HO’s views. She considered that when making those remarks in the Annual Report, The Ombudsman should also set out in the Annual Report the criteria for defining and the number of abuse cases etc. for full justification of her remarks. This apart, Mr Michael MAK was of the view that the remarks made by The Ombudsman would, to a certain extent, deter members of the public from lodging complaints. He enquired whether training was provided to frontline staff of the Office to equip them with the necessary professional knowledge in assessing if a complainant was abusing the Office’s complaint system.

31. The Ombudsman clarified that the views referred to in the “The Ombudsman’s Review” of the Annual Report were her personal feelings. Her intention was to inculcate a positive complaint culture by reminding complainants and complaine organizations the need to make the best use of the complaint system. The remarks also served to make clear to public officers that they should faithfully discharge their duties in accordance with prevailing policies. Acceding to unjustified demands could in itself constitute an act of maladministration. The Ombudsman pointed out that when members of the public approached the Office for complaints/assistance, all they had to do was to present to the Office prima facie evidence of maladministration on the part of Government departments. If a prima facie case existed, they would be entitled to complain. The question of abuse would not normally arise at this stage. After investigation, the Office would inform the complainants whether or not their complaints were substantiated. Abuse would only arise after the Office had concluded a case as being unsubstantiated, but the complainant still persistently pursued a particularly desired outcome to which the Office had concluded that he was not entitled. Similarly, it could be maladministration if a Government department/public organization flouted established practices and acceded to unjustified demands of a complainant for the sake of disposing of the



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complaint. In these cases, the Office would point this out clearly in its reply or investigation report. There was, therefore, no question that departments/public organizations being criticized could fail to understand the standard of behaviour expected of them. She added that there had been extensive media coverage on her remarks of the abuse of the complaint system made in the Annual Report. The overwhelming majority of press reports presented the issue positively and accurately portrayed her stance on the matter. This apart, The Ombudsman clarified that all the 147 cases involving the Correctional Services Department were cases requesting assistance, and none amounted to an abuse of the complaint system. She assured Members that the Office appreciated the unique circumstances of complainants from prisons and would not likely regard their complaints as abuse.

32. On the compilation of statistical data on suspected abuse cases, The Ombudsman pointed out that the Office had so far not kept such statistics to avoid a labeling effect. Her intention in making the remarks in the Annual Report was to air publicly her perception of incidents of abuse before this became entrenched and to remind public officers the need to do their duty notwithstanding the threat of complaints. In view of Members' concerns, however, she undertook to consider keeping statistics on suspected cases of abuse of the Office's complaint system.

33. Mr LAU Kong-wah commended The Ombudsman for her courage in highlighting in the Annual Report the abuse of the complaint system by the public. He suggested that The Ombudsman might consider publishing the number of abuse cases in the next annual report for public information. He enquired whether there had been any changes to the complaint culture since the publication of the above remarks, and whether The Ombudsman would, in addition to making those remarks publicly, consider devising other measures to prevent abuse.

34. In response, The Ombudsman said that after she had made those remarks, her staff appeared to be more ready to challenge suspected abuses. Feedback from Government departments/public organizations was also positive as public officers saw this as support for them to discharge their duties according to policies, without fear of retaliation from unreasonable clients. As for the curbing of the abuse of the complaint system, she agreed to consider including in next year's annual report an assessment of the performance of Government departments/public organizations in that respect.

35. The Chairman concluded that on the premise of making the best use of limited community resources and under the principle of fairness, Members agreed to the need to curb the abuse of the complaint system. Members' concern arose because of the impression that *many people* were abusing the system when no statistics were kept on this matter. She advised that should The Ombudsman wish to make similar remarks in future, due consideration should be given to putting those remarks in context, such as by providing

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background information or supporting data. This would avoid unnecessary misunderstanding or misconception.

(*Post-meeting note:* In a letter to the Chairman dated 2 January 2003, The Ombudsman clarified further that the remarks in the Annual Report were intended to put across the message that “*some complainants* have their own agenda and ‘use’ my Office to press for their own desired outcome”.)

**V. Any other business**

36. There being no other business, the Chairman declared the meeting closed. She thanked The Ombudsman and her colleague, as well as Members, for attending the meeting.

37. The meeting ended at 1:00 pm.

Legislative Council Secretariat

4 March 2003