

**Replies to initial written questions raised by Finance Committee Members in
examining the Estimates of Expenditure 2006-07**

**Controlling Officer : The Ombudsman
Session No. : 7**

Reply Serial No.	Question Serial No.	Name of Member	Head	Programme
OMB001	0808	Hon. TAM Heung-man	114	Complaints Administration

Examination of Estimates of Expenditure 2007-08
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN/SUPPLEMENTARY QUESTION**

Reply Serial No.
(in Bold type)

OMB001

Head : 114 - Office of The Ombudsman

Question Serial No.

Subhead (No. & title) : 000 Operational expenses

0808

Programme : Complaints Administration

Controlling Officer : The Ombudsman

Director of Bureau : --

Question : The estimated expenditure for 2007-08 is \$81.60 million. The number of enquiries received in 2005-06 was 14 633. However, the number of substantiated cases after full investigation in that year was only 13. Has any assessment been carried out on the cost-effectiveness of complaint investigation? If yes, what is the result of the assessment?

Asked by : Hon. TAM Heung-man

Reply : This question shows ignorance of how the ombudsman system operates. The question stated that (a) there were "13 substantiated findings" out of 14 633 "investigations" in 2005-06; and (b) implied that the effectiveness (or "cost-effectiveness" being the term used) of the ombudsman system should be judged by the number of "substantiated" findings in investigations.

Workload for 2005-06

The figures quoted in the question have no correlation with each other. The following reflects the Office's workload for 2005-06:

(a)	Enquiries	14 633
(b)	Complaints <i>Comprising 4,266 new cases and 719 b/f from 2004-05</i>	4 985
(c)	Complaints concluded	4 309
	• by the following means -	
	rendering clarification/assistance	1 573
	INCH referral	185
	mediation	12
	full investigation	55

• not investigated for reasons below –	762
outside jurisdiction	351
restriction on investigation	
withdrawn/discontinued/	1 371
not undertaken	

Once a complaint is accepted for processing, the continuum of investigation starts. The manner of processing is governed primarily by the nature and complexity of the case, as well as the parties' willingness to interact with each other. Where a complaint cannot be resolved by preliminary inquiries or perceivably involves serious maladministration, a full investigation will be conducted. Irrespective of the mode of operation, our ultimate aim is to establish the facts and to assist the organisation concerned to identify and rectify administrative deficiencies by recommending improvement measures and remedy where due.

Full investigation normally involves maladministration of a more serious nature, for which The Ombudsman Ordinance has prescribed certain procedures governing the investigation as well as providing for publication of findings in the public interest. It is our practice to use the terms "substantiated", "partially substantiated" and "unsubstantiated" to describe our findings in full investigations declared under section 12 of the Ordinance. On the other hand, we may equally find fault and make recommendations, but no formal labelling is applied to our findings in inquiries and investigations conducted other than under section 12 of the Ordinance.

For 2005-06, a total of 4 309 cases were processed. Of these, 55 had to be declared for full investigation under section 12 of The Ombudsman Ordinance. Of these, 13 cases were substantiated, 14 were partially substantiated, 26 were unsubstantiated and two were withdrawn by complainants.

In addition to individual complaints, we also initiate, often in the absence of complaints, direct investigation on issues of wide public concern. In 2005-06, we completed four direct investigations, always concluding with a series of recommendations for improvement to public administration.

In this connection, in 2005-06, we made 110 recommendations after full and direct investigations and 218 suggestions after preliminary inquiries. Most of these recommendations have been accepted by the organisations concerned for implementation.

Objective of the ombudsman system

In investigating complaints, The Ombudsman seeks to establish whether there is evidence of maladministration and if so, whether the findings call for remedies for the case in question and/or recommendations to prevent recurrence in the future. The Mission of the Office is stated thus: *"Through independent, objective and impartial investigation, to redress grievance and address issues arising from maladministration in the public sector and bring about improvement in the quality and standard of and promote fairness in public administration."*

The idea of using complaint substantiation rate as the yardstick to measure the effectiveness or cost-effectiveness of the ombudsman system suggests an unequivocal institutional bias in favour of substantiation. This goes against the fundamental principle of the ombudsman system of having an independent office to investigate complaints and to report, without fear or favour, on the investigation's findings together with recommendations where appropriate.

Signature _____

Name in block letters _____ Alice Tai

Post Title _____ The Ombudsman

Date _____ 14 March 2007