

**Information Note**  
**For LegCo Members' meeting with The Ombudsman**  
**On 9 December 2008**

**(A) Work of The Ombudsman's Office****(i) For the year 2007/2008**

In the 2007/2008 Reporting Year, the Office received a total of 12,169 enquiries and 4,987 complaints; and 4,644 complaints were concluded. Of these, 68.1% were concluded within three months, 30.4% were concluded between three to six months and 1.5% took longer than 6 months to conclude.

For easy reference, statistics on complaints and enquiries for the past five years are tabulated below:

	<b>Reporting years</b>				
	03/04	04/05	05/06	06/07	07/08
<b>(A) Enquiries received</b>	12,552	11,742	14,633	15,626	12,169
<b>(B) Complaints received</b>	4,661	4,654	4,266	5,606	4,987
<b>(C) Complaints brought forward</b>	772	1,088	719	676	942
<b>(D) Complaints for processing = (B) + (C)</b>	5,433	5,742	4,985	6,282	5,929
<b>(E) Complaints handled and concluded</b>	4,345	5,023	4,309	5,340	4,644
<b>By preliminary inquiries</b>	1,834	1,873	1,758	1,643	1,938
<b>By full investigation</b>	284	125	55	71	38
<b>By mediation</b>	7	6	12	2(6*)	1(3*)
<b>Complaints screened out</b>	1,892	1,948	1,113	2,385	1,246
<b>Complaints not pursued</b>	-	-	1,371	1,239	1,421
<b>(F) Percentage of complaints concluded = (E) ÷ (D)</b>	80%	88%	86%	85%	78.3%
<b>(G) Total cases carried forward = (D) – (E)</b>	1,088	719	676	942	1,285
<b>(H) Number of direct investigations completed</b>	5	5	4	4	4
<b>(I) Direct investigation assessment reports produced</b>	5	6	6	5	2

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

Four direct investigations were completed on the following subjects:

1. Special examination arrangements for students with specific learning difficulties by the Education Bureau and the Hong Kong Examinations and Assessment Authority
2. Mechanism for handling conflict of interests in organisations subvented by the Leisure and Cultural services Department
3. Alleged overcharging of water bill by the Water Supplies Department
4. Handling of water seepage complaints

Apart from direct investigations, the Office also concluded the following two direct investigation assessments:

1. Management of mortuaries in hospitals under the Hospital Authority
2. Immigration Department Application Forms for foreign domestic helpers

For the year, a total of 103 recommendations were made to improve various aspects of public administration. Of these, 42 were related to complaints and 61 resulted from direct investigations. All recommendations were accepted for implementation.

**(ii) For the first seven months (April to October) of 2008/2009**

From April 2008 to October 2008, the Office received a total of 8,452 enquiries and 2,965 complaints.

During the period, one direct investigation has been completed and six are still in progress.

**Completed**

1. Effectiveness of the Integrated Call Centre in handling complaints

## **In progress**

1. Government measures for street management
2. Administration of special grants under Comprehensive Social Security Allowance
3. Support for students with special learning difficulties
4. System for development of question papers in public examinations
5. Control of roadside banners
6. Handling of complaints involving damage to property or minor injuries caused by Housing Department or its contractors

Meanwhile, two DI assessments have also been completed:

1. Enforcement against unauthorised extension of business areas by licensed restaurants
2. Procedures for reporting breach of the Unsolicited Electronic Message Ordinance

## **(B) Areas of Concern during my tenure as The Ombudsman**

This is the final year of my tenure as The Ombudsman. In the 2007-08 Annual Report, I outlined some areas of concern in The Ombudsman Review. Up to now, these concerns are still valid and I take the liberty to repeat them here for Members' attention.

### **(i) Lack of Monitoring Mechanism**

It is important to have a proper mechanism to monitor the implementation of any policy. A case about illegal construction of graves in the New Territories revealed that Government has a policy of generally allowing refurbishment or reconstruction of graves built before a certain date. However, not having surveyed such graves at the time, the authorities have difficulty ascertaining whether a grave is new and illegally constructed or old but refurbished or reconstructed, as allowed under the policy.

The Administration should take reference and avoid similar pitfalls, not just in the specific incident but generally in other areas of administration.

**(ii) Lack of Coordination**

In my report for 2005/06, I commented at length on the issue of lack of coordination among Government departments in taking enforcement action, particularly in abatement of environmental nuisances – a reflection of the absence of legislation, policy or *esprit de corps* among the departments concerned to tackle such nuisances specifically and fully. The situation had not improved much since. In July and November 2007 respectively, I initiated two direct investigations into how departments operate to deal with the long-standing, cross-department issues of water seepage complaints and street management (including illegal parking of bicycles and placing of skips).

The direct investigation on handling of water seepage complaints was completed in March this year. A key recommendation I made was for the three Departments of Buildings, Food and Environmental Hygiene and Water Supplies to review together the organisation and staffing of the Joint Office with a view to designating a department to be its acknowledged head with formal authority and clear lines of command. I look forward to early implementation of this recommendation, as I believe this will go a long way to improving coordination among the Departments concerned in handling water seepage complaints.

I must also add that seepage is basically a matter of building management and maintenance for private property owners themselves, unless public health, hygiene and building safety are involved. The ultimate solution must, therefore, be mutual cooperation among the owners and, in case of continuing disputes, a quasi judicial tribunal. In this connection, the investigation mentioned above has also recommended the Administration to give priority to a proposal it had made in 2005 to establish a Building Affairs Tribunal.

I maintain my view that departments must take on a broader prospective: however many departments may be involved, as the public still sees them one and the same Government to members of the public. Such buck-passing among departments can only give the public an impression that they are shirking their responsibilities. In the final analysis, this will undermine Government's credibility.

### **(iii) Quality of Service vs Availability of Resources**

From time to time, Government departments are found unable to meet public demand for essential services as a result of staff shortage. Of course, I appreciate the need for economy, especially in times of financial constraint. However, the Administration should not overlook or underestimate the importance of support for key services, particularly “front-line” customer services such as telephone enquiry service. For many citizens, contacts with government departments often stop at the front line. Front-line services will influence their perception of the adequacy and efficiency of services provided by the Government. As well put by Ms Ann Abraham (Parliamentary and Health Service Ombudsman of UK), “all public bodies must, and should, spend public money with care. However, finite resources should not be used as an excuse for poor service or administration.”.

### **(iv) Access to Information**

In pursuit of open and transparent government, since 1995, Government’s Code on Access to Information has been in force as an administrative guide to Government departments. The objective of the Code is to make available as much information as possible to the public, unless these are valid reasons – related to public, private or commercial interests – not to do so. While complaints about non-compliance or misapplication of the Code have not been numerous (15 in 2007/08), some cases have brought into sharp focus signs of misunderstanding, or even ignorance, of the Code among Government departments.

In several cases, the departments refused requests for information, either without providing any reason or with reasons not in compliance with the Code. In one or two cases, even the Access to Information Officer, charged with the responsibility for compliance supervision, showed utter ignorance about provisions of the Code. In one case, a department has developed its own internal guidelines for handling requests for information, a good initiative, but unfortunately, the guidelines contain provisions that are in direct conflict with those in the Code.

The Code is the principal safeguard against improper withholding of Government-held information from the public. It is, therefore, of paramount importance that all departments are conversant with its provisions. We have drawn the attention of the Administration to the ignorance or lack of understanding of the Code among some civil servants and urged for promotion of awareness and more extensive training.

**(C) Jurisdictional Review**

I have completed a review of The Ombudsman's jurisdiction and forwarded proposals to the Administration. Part One of the review, submitted to the Administration in November 2006, re-examined the criteria for including public bodies in The Ombudsman's purview and recommended a few additions. I have also revisited the legislative intent for some of the restrictions on investigative powers. The Administration's formal response to the review is still awaited..

I have also presented to the Administration Part Two of the review in November 2007, devoted to surveying trends for development in ombudsmanship worldwide and the implications those could have on the ombudsman system in Hong Kong. Hopefully, this would set the scene for possible changes in the years to come and contribute to more comprehensive and successful operation by future Ombudsmen.