

**立法會**  
**Legislative Council**

LC Paper No. CRM 528/16-17  
(These minutes have been seen  
by The Ombudsman)

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**Minutes of meeting between Legislative Council Members  
and The Ombudsman, Ms Connie LAU Yin-hing, JP,  
on Wednesday, 21 December 2016, at 11:00 am  
in Conference Room 1, 2/F, Legislative Council Complex**

- Members present** : Hon Starry LEE Wai-king, SBS, JP (Chairman)  
Hon LEUNG Kwok-hung  
Hon Claudia MO  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon Kenneth LEUNG  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Hon Andrew WAN Siu-kin  
Hon CHU Hoi-dick  
Dr Hon Junius HO Kwan-yiu, JP  
Hon SHIU Ka-chun  
Hon Wilson OR Chong-shing, MH  
Dr Hon CHENG Chung-tai  
Hon KWONG Chun-yu
- Attendance by invitation** : Ms Connie LAU Yin-hing, JP  
The Ombudsman
- Mr SO Kam-shing  
Deputy Ombudsman
- Mr Tony MA Kai-loong  
Assistant Ombudsman 1
- Mr Frederick TONG Kin-sang  
Assistant Ombudsman 2

**Staff in attendance :** Ms Amy YU  
Principal Council Secretary 1

Miss Erin TSANG  
Chief Council Secretary (Complaints)

Miss Amanda LEUNG  
Senior Council Secretary (Complaints and  
Resources Management) 4

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### Action

The Chairman welcomed Ms Connie LAU, The Ombudsman, Mr SO Kam-shing, Deputy Ombudsman, Mr Tony MA, Assistant Ombudsman 1, and Mr Frederick TONG, Assistant Ombudsman 2, to the meeting. She said that the purposes of the meeting were for The Ombudsman to brief Members on the work of The Ombudsman's Office ("the Office"), and for both parties to exchange views on issues of mutual concern. The Chairman reminded Members that the meeting would not be covered by the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and individual cases would not be discussed.

#### **I. Briefing by The Ombudsman on the work of the Office in the previous year** (LC Paper No. CRM 185/16-17(01))

##### Briefing by The Ombudsman

2. The Ombudsman briefed Members on the work of the Office, details of which were set out in Part I of LC Paper No. CRM 185/16-17(01). The salient points were highlighted below:

- (a) In 2015-2016, a total of 12 159 enquiries and 5 244 complaints were received, and 5 242 complaints were concluded. Of the cases completed, 87.5% were concluded within three months, 12.1% were concluded in three to six months, and 0.4% took more than six months to conclude. During the year, eight direct

investigations were completed and announced, and 98% of the recommendations made by the Office were accepted for implementation. Email remained the most popular mode of lodging complaints, with a total of 2 507 email complaints (including by online complaint form) received, accounting for 47.8% of the total complaints received.

- (b) In the first eight months of 2016-2017, the Office received a total of 7 949 enquiries and 3 378 complaints. Seven direct investigations had been completed so far, while 9 were in progress.
- (c) With the consent of complainants and the organizations under complaint, the Office continued to resort to mediation as an alternative method for resolving efficiently cases involving no or only minor maladministration. Among the 3 100 cases pursued and concluded in 2015-2016, 134 cases (4.3%) were handled by way of mediation. The average processing time was about 19 days and over 80% of the mediated cases could be completed within one month. According to the feedback collected via questionnaires, most of the participating parties showed appreciation of the efficiency in resolving the cases as well as the performance of the staff as mediators.
- (d) In collaboration with the Radio Television Hong Kong, the Office produced a television mini-series of five episodes entitled "The Ombudsman 5-minuter" in April 2016 to promote the functions and jurisdiction of The Ombudsman. Apart from television, the programme was also broadcast via digital media on buses and online social platform. The Office would produce a further television series of eight episodes entitled "Ombudsman Special II" to be aired in April 2017. The stories would mostly be adapted from real life scenarios of previous cases handled by the Office.
- (e) Mandated by The Ombudsman Ordinance (Cap. 397), the Office had powers to investigate matters concerning the Code on Access to

Information. There was a rise in the number of complaints received by the Office in relation to access to information. In the first eight months of 2016-2017, 63 cases had already been received as compared to 64 cases in the whole year of 2015-2016. To provide useful reference for Government departments and public organizations in handling requests for access to information and to enhance public understanding of their right to information kept by Government departments/public organizations, a new section on the Office's website was dedicated for publishing selected cases relating to access to information.

## Discussion

### *Mediation*

3. In response to Mr Kenneth LEUNG's enquiry on whether the Office had any established procedures for dealing with complaints by means of mediation, including the appointment of mediators, The Ombudsman advised that the Office had established procedures for mediation, and investigation officers who had been trained in mediation would act as mediators.

### *Direct investigations*

4. Mr Wilson OR enquired about the criteria under which the Office would consider launching a direct investigation. The Ombudsman advised that one of the major considerations was whether the matter involved was of public interest and concern.

5. Mr Wilson OR further enquired about the follow-up actions taken by the Office after issuance of a direct investigation report. Mr Kenneth LEUNG also sought clarification on whether The Ombudsman had any statutory power to ensure that the recommendations made in direct investigation reports would be accepted for implementation.

6. The Ombudsman advised that after issuance of investigation reports, the Office would follow up closely with the concerned departments/organizations on the progress of implementation of the Office's recommendations

made therein. Should the concerned departments/ organizations fail to implement the recommendations without reasonable explanation, The Ombudsman might, pursuant to The Ombudsman Ordinance, submit the reports and recommendations, together with her further observations, to the Chief Executive. The Ordinance also empowered The Ombudsman to make a further report to the Chief Executive if she considered a serious irregularity or injustice to have taken place. Where such a report was made, a copy of the report should be laid before the Legislative Council.

*Code on Access to Information*

7. Ms Claudia MO expressed grave concern that Government departments invariably misused the reasons that the information requested was for internal reference only, commercially sensitive, or related to the privacy of individuals to withhold information from the public. Although the Code on Access to information had been put in place and The Ombudsman had a mandate to investigate matters relating to the Code, the Code was not legally binding. Worse still, in the absence of an archives law to regulate the management of Government records, some of the Government records had been destroyed and hence the public could not have access to them. As such, she enquired whether The Ombudsman would call on the Government to introduce legislation on freedom of information and archives.

8. Deputy Ombudsman advised that the Office had conducted a direct investigation on the access to information regime in Hong Kong and published a report in March 2014, in which a number of improvement recommendations had been made to the Administration. Moreover, as set out in the Direct Investigation Report on Public Records Management in Hong Kong which was published in March 2014, the Office had made reference to overseas jurisdictions where freedom of information legislation was implemented, and urged the Administration to seriously consider introducing legislation on public records and archives. The recommendations were basically accepted by the Administration, and the Law Reform Commission was mandated to review the present situation in relation to the management of Government records with a view to making

recommendations on possible options for reform where necessary. He stressed that the Office remained of the view that it was necessary to introduce the said legislation and the Office would keep in close view the development of the issues.

*Performance pledges of the Office*

9. Mr YIU Si-wing noted that in the past three years, the percentage of cases completed by the Office was around 85% to 86%, and the number of cases carried forward to the next reporting year was around 900. Yet, in the first eight months of 2016-2017, the percentage of cases completed was only 75.8% while the number of cases carried forward to the next reporting year increased to 1 030. He enquired as to whether such situation was normal.

10. The Ombudsman stressed that the Office attached great importance to meeting the performance pledges, and hence most of the cases handled by the Office could be concluded within three months as against the performance pledge of concluding a case within six months. She added that the time taken for processing a case depended very much on the complexity of the case, the number of complaints received at the time, and other factors such as whether there was any delay on the part of the departments under complaint in responding to the Office, and whether there was any unexpected development in the course of processing the case.

*Manpower resources of the Office*

11. Dr Helena WONG enquired as to whether the Office had sufficient manpower resources to cope with the workload; if not, whether the Office would, due to stringent manpower resources, screen out some of the complaints lodged by members of the public, and if so, the criteria for screening out complaint cases.

12. The Ombudsman stressed that the Office made good use of its manpower resources to deal with all complaints received. Cases were screened out largely because the matters complained about were outside the Office's jurisdiction or restricted under the law, and certainly not because of manpower constraints. Furthermore, despite the Office's limited manpower resources, the number of

direct investigations conducted by the Office had been on the rise. While there had only been five direct investigations completed in 2011-2012, eight were completed in 2015-2016. It was expected that 12 direct investigations would be completed in 2016-2017. She would ensure that there would be sufficient manpower resources to deal with the Office's workload and the investigations conducted would be comprehensive with solid recommendations made.

*Eligibility criteria for disability allowance*

13. Dr Fernando CHEUNG noted that the Social Welfare Department had already accepted the Office's recommendation, as set out in the Direct Investigation Report on Granting of Disability Allowance and Processing of Appeals by the Social Welfare Department published in October 2009, that the reference of "100% loss of earning capacity" should be removed from the eligibility criteria for disability allowance ("DA"). Yet, he expressed grave concern that the Government had been employing delaying tactic in implementing the recommendation, as a result of which many disabled persons were still not eligible for DA. He enquired as to how the Office could ensure the early implementation of the recommendation.

14. The Ombudsman said that the Labour and Welfare Bureau ("LWB") had set up the Inter-departmental Working Group on Review of the Disability Allowance to examine the eligibility criteria for DA from various aspects, including the review of the present arrangements for DA having regard to The Ombudsman's recommendations. Upon completion of the review, LWB had briefed the Legislative Council Panel on Welfare Services on the findings and recommendations of the Working Group. She noted that at the Panel's special meeting on 3 May 2016, LWB indicated that it would defer the implementation of the proposed amendments to the Medical Assessment Form ("MAF") and the Checklist for Medical Assessment of Eligibility for Normal Disability Allowance for Disabilities other than Profound Deafness as consensus had yet to be reached on certain proposed amendments to MAF. The Office would continue to keep in view LWB's progress on implementing the Office's aforesaid recommendation.

*Territory-wide System Assessment*

15. Dr CHENG Chung-tai noted that the second largest group of topical complaints received by the Office in 2015-2016 was related to the Territory-wide System Assessment ("TSA"). Since TSA was of wide public concern and might be fully resumed in 2017, he enquired whether the Office would disclose more details on the complaints received on TSA and consider initiating a direct investigation on TSA.

16. Assistant Ombudsman 1 advised that the Office had received complaints on the implementation of TSA. Yet, pursuant to The Ombudsman Ordinance, The Ombudsman and her staff had to maintain secrecy in respect of all matters arising from, inter alia, complaints made to her. He therefore could not disclose details on the complaints so received. As to whether a direct investigation in relation to TSA would be launched, he said that the Coordinating Committee on Basic Competency Assessment and Assessment Literacy had conducted a comprehensive review on the implementation of TSA in late 2015 and submitted to the Education Bureau ("EDB") a report setting out its recommendations. The Office would observe the development of the matter to decide whether a direct investigation should be initiated.

*Unauthorized alterations to public rental housing units*

17. While affirming the good work of the Office, Mr WU Chi-wai was concerned that in following up on some complaint cases, the Office might have focused too much on the need for compliance with law and overlooked the historical reasons leading to the problems. He cited for illustration that although some tenants, particularly those living in old public rental housing ("PRH") estates, had made unauthorized alterations to their PRH units for years, those alterations did not have any adverse impact on the building structures nor cause nuisances to other tenants. If the Office insisted that staff of the Housing Department ("HD") had to take action against those alterations, it might give rise to confrontation between the concerned tenants and staff of HD. As such, he enquired as to whether the Office would consider striking a suitable balance and adopting a client oriented approach in dealing with complaints about



unauthorized alterations to PRH units.

18. The Ombudsman responded that on receipt of a complaint, the Office would ascertain whether there was maladministration on the part of the department/organization under complaint. Depending on the nature and complexity of the complaint, it would resort to the most suitable method in handling it, including mediation which would aim to achieve consensus between the complainant and the department/organization under complaint for effective resolution of the problem. Regarding unauthorized alterations to PRH units, Assistant Ombudsman 2 informed Members that the Office was conducting a direct investigation into the relevant follow-up mechanism of HD, and would announce the findings upon completion of the investigation.

*Complaints received against the Housing Department and the Food and Environmental Hygiene Department*

19. Noting that HD and the Food and Environmental Hygiene Department ("FEHD") had been the departments frequently under complaint, Mr Wilson OR enquired about the matters usually complained about, and the measures, if any, to help improving the performance of those departments frequently under complaint.

20. The Ombudsman pointed out that since staff of HD and FEHD had more frequent and extensive contact with members of the public, there was a higher chance that these two departments got more public complaints, and departments with a large number of complaints did not necessarily mean that they performed poorly. Generally speaking, the complaints received by the Office against HD and FEHD were related to the departments' day-to-day operation.

*Complaints about water leakage*

21. The Chairman remarked that in spite of the direct investigation conducted by the Office in relation to leakage of private water pipes, she still received a lot of complaints about water leakage. The complainants' major concern was that the concerned Government departments could not help them resolve the problems, and the source of leakage could not be identified and hence the problem persisted. As such,

she enquired about the Office's follow-up in this regard with a view to helping alleviate the complainants' concern.

22. Deputy Ombudsman said that the Office had also received a lot of complaints against the Joint Office set up by the Buildings Department and FEHD for investigation of water seepage complaints. In following up those complaints with the Joint Office, the Office noted that the Joint Office was exploring new methods for detecting the source of seepage, and would enhance its work procedures. It was hoped that the Joint Office would benefit from its discussions with the Office to improve its work. In this connection, The Ombudsman shared with Members that the Office had successfully mediated a number of complaints relating to water seepage.

*Direct investigation in relation to subdivided flats*

23. Since subdivided flats might have adverse impact on the building loading and hence the structural safety of the concerned buildings, the Chairman enquired as to whether the Office would consider initiating a direct investigation into the matter. The Ombudsman welcomed information on the subject for study by the Office. She said that a direct investigation into Government's handling of the safety problems posed by subdivided flats might be initiated if found necessary.

**II. Discussion items raised by Members**  
(LC Paper No. CRM 185/16-17(01))

(a) Issues relating to the Investigation Report on Complaints against Food and Environmental Hygiene Department for Improper Handling of Food Safety Complaints issued by the Office of The Ombudsman

24. Dr Helena WONG remarked that there was great public concern for food safety, and she was pleased to note that the Office was conducting a direct investigation into FEHD's monitoring of food safety. She sought information on the details of the direct investigation.

25. The Ombudsman advised that arising from the investigation of a complaint against FEHD, the Office noted

that there was inconsistency in the prosecution standards for food categories covered in Part 1 of Schedule 1 to the Pesticide Residues in Food Regulation and those not covered in the above Schedule. As such, the Office had decided to initiate a direct investigation into FEHD's monitoring of food safety, which covered issues relating to how FEHD would resolve the aforesaid inconsistent prosecution standards.

(b) Issues relating to the regulation of wall-mounted dispensers

26. Dr Helena WONG expressed concern that drinking water samples taken from certain wall-mounted dispensers had been detected to have contained excessive lead content and even cadmium which would cause cancer. Although wall-mounted dispensers were widely used in schools, food premises and offices, both the Food and Health Bureau and the Water Supplies Department refused to collect drinking water samples from food premises' dispensers for testing to ascertain whether the drinking water was safe for human consumption. Although the Water Supplies Department had issued "Tips for Using Wall-mounted Dispensers" and advised food premises operators to drain away the water in the dispensers every morning, its advice might not be taken on board. In the absence of dedicated provision under the existing legislation for regulation of dispensers to protect public safety, she considered that The Ombudsman should initiate a direct investigation to look into matters relating to the regulation of dispensers without further delay.

27. The Ombudsman responded that pursuant to the discussion on this subject at the last meeting, the Office had relayed Member' concerns to the relevant bureau and department. The Development Bureau had set up an inter-bureau and inter-departmental working group ("Working Group"), which put forth proposals on introducing legislation for safeguarding the safety of drinking water in Hong Kong. The Office had been keeping a close watch on the development and would follow up with the Working Group on Member's concerns expressed at this meeting. As to Dr WONG's request for initiating a direct investigation into the issues in parallel with the Working Group's studies on the issues, The Ombudsman took note of the request for further consideration.

28. In this connection, Dr Helena WONG noted that the Office normally would not initiate direct investigation into a matter if the Administration was following up on it. She was concerned that the Administration might procrastinate on its follow-up. The Ombudsman responded that due to its limited resources, the Office would not duplicate the effort to follow up on the same issue. Nevertheless, it would keep in close view the development and would initiate investigation if it was noted that there was maladministration on the part of the concerned departments.

(c) Issues relating to the reprovisioning of Yau Ma Tei Fruit Market and Cheung Sha Wan Wholesale Vegetable Market and the relocation of Cheung Sha Wan Temporary Wholesale Poultry Market

29. Dr Helena WONG expressed concern that the reprovisioning of the captioned markets had been delayed for a long time, and the sites originally identified for relocation were used for residential development. Pointing out that the operation of these three markets had been causing immense nuisances, such as illegal occupation of roads for loading and unloading activities, she enquired whether The Ombudsman would consider conducting a direct investigation to probe into the delay in reprovisioning.

30. The Ombudsman responded that since the Administration had commissioned a consultant to study the matter and had undertaken to report to the Legislative Council Panel on Food Safety and Environmental Hygiene once the outcome of the consultancy study was ready, the Office would keep in view the development of the issue. She assured Members that should there be any delay on the part of the concerned departments, the Office might consider launching a direct investigation to look into the matter.

(d) Issues relating to the Lifelong College

31. Dr Helena WONG remarked that the Lifelong College had allegedly engaged in activities of "trading of degrees" and fast-tracking the award of degrees to students by illegal means. She was pleased to note that the Office had initiated a direct investigation into the matter. Since the Lifelong College had now changed its name to continue its

operation and approval for its operation had been obtained from EDB, she requested the Office to expand the scope of the said direct investigation to include this matter. Mr LEUNG Kwok-hung also expressed concern about the falsification of academic qualifications as he considered that it would bring about serious negative impacts if public power was exercised by persons with false academic qualifications. He was of the view that the issue should be followed up with vigilance.

32. The Ombudsman responded that the direct investigation undertaken by the Office was initiated from a wider perspective as it was related to EDB's mechanism for regulating institutions offering non-local higher and professional education programmes and not just the incident of the Lifelong College. Dr Helena WONG took note of The Ombudsman's response and remarked that she would provide further information on the issue to the Office to facilitate its investigation.

(e) Issues relating to the detection of dioxins in hairy crabs

33. Dr Helena WONG was concerned that as revealed in the recent incidents of hairy crabs detected with dioxins, there were loopholes in the current mechanism for monitoring food safety. She pointed out that the Centre for Food Safety ("CFS") of FEHD had, on the one hand, accepted health certificates issued by the Mainland authorities which did not certify the non-existence of dioxins in hairy crabs but, on the other, suspended the sale of hairy crabs containing dioxins exceeding its action level within Hong Kong. Such an arrangement caused confusion to members of the public and the trade. Moreover, CFS failed to ensure that the Mainland authorities would adopt the same standards as Hong Kong in respect of dioxins in hairy crabs. She also considered that the existing standards adopted by CFS in monitoring food safety too lenient as its advice to the public was that consumption of vegetables with pesticide residues exceeding the maximum residue limit did not necessarily imply a hazard to health as long as the dietary exposure to that particular pesticide fell within the safety reference value.

34. In response, The Ombudsman opined that FEHD, as a gatekeeper tasked with enforcing food safety legislation,

should ensure that all imported foods met the food safety standards in Hong Kong. As such, the direct investigation mentioned in paragraph 24 above would also look into the different standards adopted by FEHD in monitoring food safety, risk assessments conducted on food products, and the standards set by FEHD on pesticide residues in foods. On Mr LEUNG Kwok-hung's enquiry as to whether FEHD should consider introducing a risk disclosure mechanism in which importers of food products were required to take on the responsibility of testing their products and disclosing to FEHD any risks involved with a view to enhancing the monitoring of food safety in Hong Kong, The Ombudsman said that Mr LEUNG's suggestion was for FEHD to consider.

35. In this connection, Dr Helena WONG suggested The Ombudsman to also look into matters relating to the use of antibiotics and asthma medicine in food animals in the above direct investigation. The Ombudsman noted Dr WONG's suggestion.

(f) Issues relating to the regulation of Chinese herbal medicines

36. Dr Helena WONG expressed concern that under the existing regulatory mechanism, the Department of Health ("DH") would only select as few as around 30 samples of Chinese herbal medicines for testing of pesticide residues, and the test results were not publicized. Moreover, unlike the Mainland and Taiwan, the risk assessment conducted in Hong Kong on a particular Chinese herbal medicine was based on the amount of pesticide residues remaining after decoction. Since the amount of pesticide residues might reduce after decoction, she questioned the effectiveness of the existing method for testing pesticide residues in Chinese herbal medicine after decoction. She also raised concern that honeysuckle, which contained several hundred types of pesticide residues, had never been tested to ascertain whether it was suitable for human intake. As such, she called on The Ombudsman to seriously consider initiating a direct investigation into the matter which should cover the testing of heavy metals such as sulphur content in Chinese herbal medicine as well. The Ombudsman took note of Dr WONG's views and concerns.

(g) Issues relating to the problems occurred in the polling stations for the 2016 Legislative Council Election

37. Dr CHENG Chung-tai was concerned that in two polling stations of the 2016 Legislative Council Election, there was discrepancy between the voter turnout figure and the number of actual ballot papers counted, and some voters were allowed to vote even if they only produced photocopies of Hong Kong identity cards. He considered that there was maladministration on the part of the Registration and Electoral Office ("REO"), which was an organization subject to the investigation of The Ombudsman as set out in Part 1 of Schedule 1 of The Ombudsman Ordinance. Yet, he was highly disappointed that as stated in her earlier written reply, The Ombudsman would not consider initiating a direct investigation into the matter. As he understood it, the Office had investigated complaints relating to vote-rigging in 2012. He therefore sought clarification on the reason for not initiating a direct investigation into the matter, in particular whether it was due to political reason that the Office adopted a double standard in deciding not to investigate matters relating to 2016 Legislative Council Election.

38. In response, The Ombudsman stressed that it was not due to any political pressure that she decided not to initiate a direct investigation into the matter. Deputy Ombudsman explained that the Electoral Affairs Commission ("EAC"), which was a statutory body tasked to oversee the process of elections to ensure that they were conducted openly, fairly and honestly, would, pursuant to the Electoral Affairs Commission Ordinance (Cap. 541), look into complaints and alleged irregularities relating to 2016 Legislative Council Election, and submit a report to the Chief Executive which would be made available to the public. The Office, therefore, considered it more appropriate for EAC to follow up on the matter.

39. Dr CHENG Chung-tai maintained that the aforesaid irregularities mentioned in paragraph 37 above were related to the alleged maladministration of REO. As such, he would ask the concerned parties to lodge with the Office a complaint against REO about the matter. The Ombudsman noted Dr CHENG's intended course of action.

(h) Issues relating to the mechanism for follow-up on complaints about soil fills and illegal land filling

40. Mr KWONG Chun-yu expressed grave concern that notwithstanding the installation of video camera surveillance system at fly-tipping black spots and that the images of the license plate numbers of the vehicles engaged in such illegal activities could be captured, prosecution could still not be instituted as the concerned vehicle owners could not be contacted. Moreover, there were many other illegal dumping activities going on elsewhere in conservation areas, causing damage to the land in the New Territories, and the persons involved remained uncaught. He also raised concern on the soil fill in Lau Fau Shan as well as the one in Tuen Mun which was so close to residential development that there were only a few metres in between.

41. The Ombudsman noted Mr KWONG's concerns, and advised that the Office had decided to initiate a direct investigation into the Government's control over landfilling and fly-tipping activities on private land. In response to the Chairman's enquiry, she advised that the scope of the direct investigation also covered the illegal dumping of construction waste, and she welcomed Members to provide further information on this subject to facilitate the Office's investigation.

(i) Issues relating to the mechanism for follow-up on complaints about unauthorized building works

42. Mr KWONG Chun-yu said that according to the latest media reports, some buyers had, because of the undue delay of the Building Department ("BD") in taking enforcement actions against unauthorized building works ("UBW"), purchased properties with UBW and hence suffered financial losses. As such, he called on The Ombudsman to investigate into the matter.

43. The Ombudsman advised that the Office had just completed investigation into two complaints against BD and pointed out in the respective investigation reports that BD had procrastinated its enforcement action against UBW which hindered the concerned owners corporation's compliance with the Building Inspection Notice, and had failed to register a removal order at the Land Registry, as a



result of which the responsibility for removing the UBW was shifted to the new owner. As to Mr KWONG's enquiry on the number of buyers who were affected by BD's defective follow-up action against removal orders and hence had to bear the legal liabilities for removing UBW left behind by former owners, The Ombudsman said that such information could be obtained from BD and she did not have it at hand.

### **III. Any other business**

#### Direct investigation into the Education Bureau's regulation of kindergarten application fees

44. Noting that the Office had completed the captioned direct investigation, Mr LEUNG Kwok-hung sought The Ombudsman's view on EDB's earlier remark that there were practical difficulties for the Bureau to examine kindergartens' income and expenditure relating to admission of students, as kindergartens were private organizations and hence were not required to submit reports of audited accounts or other financial information to the Bureau for scrutiny. He also enquired as to whether the Office would recommend the Bureau to impose an additional condition on kindergartens requiring them to submit financial statements to the Bureau for consideration of their applications for collecting application fees above the approved ceiling of \$40.

45. The Ombudsman advised that as set out in the report of the said direct investigation, the Office had recommended that EDB should, inter alia, formulate specific working guidelines for vetting and approving applications for collection of application fees above the approved ceiling, require kindergartens to give clear details of each estimated expense item, and withdraw the approval granted for a higher application fee if reports on false expense items relating to application fees were confirmed. It was noted that the Bureau would follow up on the Office's recommendations.

#### Duration of the meeting

46. Dr Helena WONG said that the meeting between Members and The Ombudsman, which was only held once a

year, provided a useful forum for The Ombudsman to exchange views with Members on issues of mutual concern. To facilitate more in-depth discussion on various issues raised, she suggested that the duration of future meetings between Members and The Ombudsman should be extended to no less than two hours. The Chairman noted Dr WONG's suggestion for consideration, and remarked that Members could continue to follow up on issues of their concern at other forums.

47. The meeting ended at 12:28 pm.

Complaints and Resources Management Division  
Legislative Council Secretariat  
30 March 2017