

立法會
Legislative Council

LC Paper No. CRM 423/17-18
(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 Tuesday, 5 December 2017, at 10:45 am
in Conference Room 1, 2/F, Legislative Council Complex**

Members present : Hon Starry LEE Wai-king, SBS, JP (Chairman)
Hon Paul TSE Wai-chun, JP
Hon Steven HO Chun-yin, BBS
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Hon Kenneth LEUNG
Hon KWOK Wai-keung, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Helena WONG Pik-wan
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Alvin YEUNG
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying

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

Action **I. Chairman's opening remarks**

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.

**II. Briefing by The Ombudsman on the work of the
Office in the previous year**
(LC Paper No. CRM 151/17-18(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 151/17-18(01). The salient points were highlighted below:

- (a) In 2016-2017, a total of 11 564 enquiries and 4 862 complaints were received, and 4 974 complaints were concluded. Of the cases screened in for processing, 87.6% were concluded within three months, 12.2% were concluded in

Action

three to six months, and only 0.2% took more than six months to conclude due to various reasons such as case complexity, new developments of the case in the mid-stream of the processing and delay of the organizations/departments under complaint in responding to the Office.

- (b) During the year of 2016-2017, 11 direct investigations were completed and announced, and 91.7% of the 254 improvement recommendations made by the Office were accepted for implementation. The investigations so conducted and recommendations made by the Office helped to spur Government departments and public organizations to make improvement. To cite for illustration, following The Ombudsman's recommendation as set out in the Annual Report of 2013 that Government departments and public bodies should adopt a more open attitude towards the making of apologies, the Apology Ordinance (Cap. 631) came into effect on 1 December 2017. Moreover, upon the Office's recommendation, the Information Services Department introduced a new arrangement in September 2017 to provide greater facilitation to eligible online-only media organizations to cover Government events.
- (c) In the first seven months of 2017-2018, the Office received a total of 7 241 enquiries and 3 011 complaints. Eight direct investigations had been completed and their findings announced, while 12 were still in progress.
- (d) With the consent of complainants and the organizations under complaint, the Office continued to use mediation as an alternative and effective method for resolving efficiently cases involving no or only minor maladministration. Among a total of 2 907 complaint cases pursued and concluded in 2016-2017, 133 (4.6%) were handled by way of mediation. The average processing time reduced significantly from 19 days in 2015-2016 to 13.4 days in 2016-2017, and over 88.7% of the mediated cases were completed within one month. According to the

Action

feedback collected via questionnaires, over 90% of the complainants and all the concerned organizations considered mediation as useful because the intended purposes could be reached, and 98% of the participating parties highly appreciated the work of the Office's staff as mediators.

- (e) Under The Ombudsman Ordinance (Cap. 397) and the Code on Access to Information, the Office specifically had powers to investigate complaints concerning access to information held by Government departments and certain public organizations. There had been a rise in recent years in the number of complaints received by the Office in relation to access to information. In the first seven months of 2017-2018, 57 cases had already been received as compared to 85 cases in the whole year of 2016-2017, which reflected that members of the public were more aware of their right of access to information. Since the Code was not legally binding, the Office could not compel the organizations in breach of the Code to make rectification nor impose penalty on them. As such, it was considered paramount that the Government should speed up the pace of legislating for the freedom of information.
- (f) To enhance public understanding of the Office's work through diversified publicity strategies and channels, the Office, in collaboration with the Radio Television Hong Kong, launched another eight-episode drama series "Ombudsman's Special II" in April 2017 which were broadcast via various media such as local television channels, online social platform and public transport.

Discussion

Recommendations made by the Office

3. Mr CHAN Chun-ying noted that 254 improvement recommendations were made by the Office in 2016-2017, of which 177 were related to individual complaint cases while

Action

77 were related to direct investigations. The overall percentage of the recommendations accepted for implementation was 91.7%. In this respect, he enquired about the respective percentages of the recommendations accepted for implementation which were related to individual complaint cases and direct investigations. Deputy Ombudsman advised that the Office did not have such a breakdown.

4. Dr Helena WONG expressed concern on how the Office could ensure that the Government departments and organizations would implement the recommendations made by the Office. She quoted for example that in the report on the direct investigation into the system of safety control for imported fruits and vegetables issued in November 2017, the Office recommended, inter alia, that the Food and Environmental Hygiene Department ("FEHD") should try to minimize, where feasible, the time for sending samples of fruits and vegetables to the Government Laboratory ("Govt Lab") for testing as currently it generally took 19 working days from sending samples to Govt Lab for testing to the release of test results. She enquired whether the Office would continue to follow up with FEHD until the recommendation was implemented. The Ombudsman assured Members that staff of the Office would spare no effort to follow up with the concerned Government departments and organizations to monitor their implementation of the Office's recommendations.

5. On Mr Kwok Wai-keung's enquiry as to why some of the recommendations made by the Office had not yet been accepted, The Ombudsman explained that since some of the Government departments and organizations were still exploring the feasibility for implementing the recommendations made by the Office, those recommendations were yet to be accepted for implementation. She assured Members that the Office would continue to follow up with those Government departments and organizations on their acceptance of the Office's recommendations for implementation.

Direct investigations conducted by the Office

6. Dr Helena WONG enquired whether the Office had encountered any difficulties in the course of conducting

Action

direct investigations, such as the concerned Government departments being uncooperative in responding to and providing the Office with the necessary information. The Ombudsman advised that so far the Government departments under investigation were cooperative in furnishing the Office with the requisite information to facilitate its investigation. In further response to Dr WONG, The Ombudsman remarked that her staff would research into the background of the issues before sending probing questions to the concerned Government departments/organizations for response. Such investigation technique was conducive to bringing to light the root of the problems and uncovering the truth.

7. On Dr Helena WONG's further enquiry about the number of direct investigations conducted by the Office each year, The Ombudsman said that the Office would, subject to the availability of resources, initiate direct investigations into problems of public interest and concern, and there was no ceiling on the number of direct investigations to be conducted by the Office each year. In this respect, she welcomed Members to provide issues of their concern for the Office to consider whether direct investigations should be initiated.

Performance pledges of the Office

8. Mr CHAN Chun-ying noted that in 2016-2017, 97.3% of the complaint cases falling outside the Office's jurisdiction or under restriction could be concluded within 10 working days, as compared to the service pledge of not less than 70%. For cases screened in for processing, 87.6% could be concluded within three months, as compared to the service pledge of not less than 60%. Since the Office's performance was well above target, he enquired whether The Ombudsman would consider enhancing further the Office's performance targets so as to strive for greater efficiency. In response, The Ombudsman stressed that endeavour had always been made by the Office to handle complaint cases efficiently. In the light of Mr CHAN's remark, she undertook to consider whether there was a need to revise the Office's performance pledges, but added that any revision to the performance pledges had to be subject to the manpower available and other commitments of the Office including direct investigations.

Action

Manpower resources of the Office

9. On the significant reduction in the average processing time for mediated cases from 19 days in 2015-2016 to 13.4 days in 2016-2017, Mr CHAN Chun-ying enquired whether it was due to any increase in the manpower of the Office. In this connection, Dr Helena WONG also enquired whether the Office needed to increase its manpower so that more direct investigations could be conducted. The Ombudsman responded that it was due to the efficiency of her staff that the processing time for mediated cases could be reduced. Moreover, the use of mediation as an alternative and efficient method for handling cases also relieved her staff to conduct more direct investigations, and hence the number of direct investigations conducted in recent years had increased. Nevertheless, she would appreciate Members' support for the Office's staffing proposal if the manpower resources of the Office became stringent.

Employee benefit expenses

10. With reference to the financial statements of the Office for the year ended 31 March 2017, Mr KWOK Wai-keung enquired as to why the expenses under the item of "Other employee benefit expenses" had increased by 30% from \$1,521,256 in 2016 to \$2,027,245 in 2017. Deputy Ombudsman advised that the increase in expenses was due to the provision of insurance with better medical coverage for the Office's staff.

Insufficient provision of public columbarium niches

11. Ir Dr LO Wai-kwok opined that as the Government had overlooked the problem of insufficient provision of public columbarium niches, it now became a serious social problem causing public concern. In this respect, he noted that the Office completed a direct investigation into the Government's follow-up actions regarding the insufficient provision of public columbarium niches in June 2016. He enquired about the effectiveness of such a direct investigation in addressing the problem of shortage of public columbarium niches.

Action

12. The Ombudsman responded that following the direct investigation into the aforesaid matter, the Office published a report in which recommendations were made with a view to increasing the supply of public columbarium niches, such as urging the Government to follow up closely the development schemes of the potential sites, start consultation and lobby the local community as soon as possible, and consider giving higher priority to potential sites which were smaller in scale and/or less controversial. Moreover, the Office urged the Government to step up publicity and public education on the use of green burial services as an alternative to depositing cremated ashes in niches so as to help alleviate the demand for public columbarium niches. Assistant Ombudsman 1 added that the Office had also urged the Government to take reference from overseas experience in exploring new modes of green burial services. He stressed that the Office would liaise closely with the Administration on its progress in implementing the Office's recommendations.

Unauthorized signboards and sub-divided flats

13. The Chairman noted with concern that pursuant to the performance pledges of the Buildings Department ("BD"), inspection should be conducted within hours with regard to new unauthorized building works ("UBWs") such as signboards and sub-divided flats, and statutory orders should be issued to the owners requiring removal. Yet, due to the ineffective control of BD, its delay in handling and failure to take follow-up and enforcement actions in accordance with its performance pledges, the problem of UBWs had become rampant. In this regard, she enquired whether the Office had conducted direct investigation on issues relating to signboards and sub-divided flats, and if not, whether the Office would consider initiating a direct investigation into the matter.

14. Deputy Ombudsman advised that the Office had handled complaints relating to signboards, and noted that BD had established a system with respect to the handling of complaints relating to signboards. However, since the Office continued to receive from time to time complaints about signboards, it would keep in view the development of the matter to decide whether a direct investigation should be initiated. As regards sub-divided flats, The Ombudsman

Action

said that due to the risks posed by some sub-divided flats to public safety, the Office would study the issue to ascertain whether a direct investigation was warranted.

Rights and benefits of outsourced workers

15. Mr KWOK Wai-keung expressed concern that under the prevailing practice, Government departments normally awarded contracts to tenderers whose tender prices were the lowest. As a result, irrespective of their years of service, outsourced workers only received the Statutory Minimum Wage, and had limited or even no opportunity to have pay rises. In this respect, he enquired whether the Office would consider investigating into the matter.

16. The Ombudsman responded that while Government contractors were responsible for delivering services to the community, outsourcing departments remained accountable for the services so provided. As such, they should monitor properly the performance of the contractors including but not limited to the wages paid to outsourced workers as stipulated in the employment contracts. Since the Office had not received any complaint in respect of the above, it needed more information before deciding whether an investigation should be launched.

Water dripping from air-conditioners

17. The Chairman was concerned that due to the ineffective control and delay in taking appropriate actions by FEHD, the problem of water dripping from air-conditioners had become serious, especially during summer time in old districts. She enquired whether the Office would consider initiating a direct investigation into the issue. The Ombudsman said that since water dripping from air-conditioners was a territory-wide problem causing not only environmental hygiene problems but also nuisances to residents on lower floors and pedestrians, the Office would follow up on the matter.

Action

III. Discussion items raised by Members
(LC Paper No. CRM 151/17-18(01))

(a) Issues relating to environmental hygiene

18. Mr Holden CHOW was concerned that due to the Government's practice of "lowest bid wins" in inviting tenders for outsourced cleansing services, the quality of such services was far from satisfactory. Moreover, owing to FEHD's ineffective monitoring of the performance of its cleansing service contractors, there had not been any improvement as to the hygiene problem at hygiene blackspots, which had given rise to numerous complaints from residents. He considered that the Office should initiate a direct investigation into the above matter.

19. Mr Steven HO shared Mr CHOW's concern that due to FEHD's ineffective monitoring, streets were dirty and might not even be swept for a month as reflected by residents. He was of the view that the Office should follow up with the Administration on FEHD's inadequacies in drawing up contracts with its cleansing service contractors to ensure that their delivery of services was up to standard as well as FEHD's ineffective monitoring of the contractors.

20. The Chairman added that FEHD also seemed to have failed to take appropriate enforcement actions, as a result of which there were still a lot of hygiene blackspots. Moreover, not only were streets littered with rubbish, some shop operators even placed goods on roadsides causing serious obstruction. She requested the Office to consider initiating a direct investigation into the matter.

21. The Ombudsman took note of Members' concerns and request, and undertook that the Office would study the issues to consider whether a direct investigation was warranted. She also took note of Mr Steven HO's comment on the Office's inappropriate use of the word "appropriate" in describing the follow-up actions taken by FEHD in sub-paragraph (2) of item 1 of Part II of the information paper (LC Paper No. CRM 151/17-18(01)) as Mr HO considered those follow-up actions ineffective.

Action

(b) Issues relating to water seepage in buildings

22. Mr Wilson OR expressed grave concern on the Office's response in the said information paper that it had no plan to conduct a direct investigation into the work of the Joint Office ("JO") set up under FEHD and BD in handling water seepage complaints. He stressed that numerous complaints had been received especially from residents of tenement buildings and under the Tenants Purchase Scheme against JO on its low efficiency and ineffectiveness in identifying the seepage source by way of colour dye tests. Notwithstanding the engagement of service contractors to assist in conducting investigations on water seepage complaints by means of infrared technology, it was to no avail. Moreover, JO did not have any performance target on the time taken for informing affected residents of the investigation results. In this respect, he enquired whether the Office had received any complaint against JO on the above areas.

23. Assistant Ombudsman 1 responded that the Office had received many complaints about water seepage and was highly concerned about the effectiveness of JO in dealing with those complaints. To this end, the Office had urged JO on numerous occasions to resort to more effective technologies such as infrared thermography and microwave tomography technologies rather than just colour dye tests to detect seepage source. Yet, due to the higher cost of such techniques, JO did not often use them for detection. The Office had then suggested JO seek more resources for more extensive use of those effective technologies. Dr Helena WONG opined that JO should employ more effective technologies to assist in tracking the seepage source and cost should not be the primary consideration. The Ombudsman undertook to follow up Dr WONG's concern with JO. Mr Holden CHOW also requested the Office to urge JO to furnish affected residents with comprehensive reports in which the seepage source was clearly identified to facilitate their civil claims for damages caused by the seepage. The Ombudsman took note of Mr CHOW's request.

24. The Chairman was concerned that the current operation of JO was far from effective and efficient in addressing the public demand for effective resolution of

Action

seepage cases and in coping with the ever increasing seepage complaints. Moreover, JO did not have performance pledge to the extent that even though it had followed up on a case for a year, it still could not identify the seepage source. Neither was it willing to update its technologies for detecting seepage source. Since seepage problem had been causing much nuisance to residents, Mr Wilson OR strongly urged The Ombudsman to actively consider conducting a direct investigation into the matter.

25. The Ombudsman said that in the light of Members' concerns, the Office would study the issues and seriously consider whether a direct investigation should be initiated. She also welcomed Members to provide the Office with seepage cases to facilitate its study.

(c) Issues relating to the lease of ward offices

26. Mr Steven HO pointed out that under the current allocation mechanism, Legislative Council ("LegCo") Members returned from functional constituencies were ever classified as the last category in the order of priority for allocation of non-domestic units in public rental housing ("PRH") estates as ward offices. As a result, their applications for lease of ward offices were hardly successful unless under joint applications. For those who did not belong to any political parties and hence could not put up joint application with affiliated member, it was even more difficult for them to lease ward offices in PRH estates. Since there was injustice in the current allocation mechanism, he considered that the Office should initiate a direct investigation into the matter with a view to improving the allocation mechanism such that the priority of an elected District Council ("DC") member who had already been allocated a ward office would be lower than that of LegCo Members returned from functional constituencies when the former applied for lease of another ward office. In this respect, he opined that the Office should also take up with the Housing Department ("HD") on its feasibility of providing more vacant premises in PRH estates by re-provisioning the existing recreational facilities such as standalone table tennis tables to vacate the bays for application as ward offices to address the need. This apart, the Office should consider following up with the Administration on its planning in new development areas to

Action

facilitate councillors' outreach to residents given that the number of the LegCo seats had already increased from 60 to 70.

27. The Chairman echoed that it was unfair for LegCo Members returned from the District Council (second) functional constituency who had the largest number of voters and hence service targets to be classified as the last category in the order of priority for allocation of ward offices under the above allocation mechanism.

28. Dr Helena WONG also considered that the Office should investigate the matter as there was loophole in the current allocation mechanism. She quoted for illustration that since "Other DC members of the district" were classified as the second priority category for allocation of ward offices, DC members belonging to a political party which had many DC members in the same district had an upper hand in leasing ward offices, depriving DC members not belonging to that political party the opportunity to lease ward offices for serving the public. Worse still, there was a DC member who left the ward office space idle without utilizing it.

29. The Ombudsman remarked that in the light of the above supplementary information provided by Members, the Office would examine the feasibility of launching a direct investigation into the matter. On Mr Steven HO's concern over the Administration's planning in new development areas, she considered it more appropriate for the subject to be followed up at the suitable forum of LegCo.

(d) Issues relating to the standards for testing the safety of Chinese herbal medicines and the quality control mechanism, and the Office's direct investigation into the Government's regulation of unregistered proprietary Chinese medicines

30. Dr Helena WONG expressed grave concern on the existing regulatory control in relation to Chinese herbal medicines ("Chms") to ensure their safety. Notwithstanding the stipulation in the prevailing practising guidelines that Chinese medicine traders should only purchase Chms from reputable suppliers, the Government failed to make available the list of reputable suppliers for public reference. Moreover, the practising guidelines were not legally binding

Action

and hence there was no statutory requirement that Chms so purchased had to be provided by manufacturers who could meet the requirements of the "Good Manufacturing Practice for Pharmaceutical Products" or by farmers who complied with the Good Agricultural Practices. The current standards for testing the safety of Chms were also too lax that unlike the Mainland and other places, Hong Kong did not conduct any testing on sulphur dioxide residue contained in Chms to safeguard public health. Even some commonly used herbal ingredients, such as honeysuckle which contained several hundred types of pesticide residues, had never been tested to ascertain whether they were suitable for human intake. As such, she called on the Office to conduct a direct investigation into the matter.

31. The Ombudsman responded that subject to the further information obtained from the Food and Health Bureau ("FHB") on its regulation of herbal ingredients listed and not listed in Schedules 1 and 2 of the Chinese Medicine Ordinance (Cap. 549), the Office would decide whether a direct investigation into the matter would be initiated.

32. Mr CHAN Han-pan noted The Ombudsman's response and opined that unlike vegetables which were for daily consumption, most of the Chms were only taken when needed. Thus, Chms should not be subject to so stringent the regulatory control as foodstuffs. Moreover, since the sale of Chms had not yet been computerized, due consideration had to be given to its impact on the industry if the existing regulatory control on Chms had to be enhanced.

33. Mr SHIU Ka-fai also remarked that although Chms should be tested to ensure its safety for human consumption, consideration should be given to the actual circumstances of the industry when drawing up the testing standards because Chms grown in different parts of the Mainland would have different qualities. In addition, he opined that the decoctions of Chms, rather than Chms in their raw state, should be tested for the pesticide residues and heavy metal contents because the former was a closer simulation of the condition during human consumption which was more appropriate for human risk assessment. Mr SHIU and Mr CHAN Han-pan also cautioned that should the Government impose too stringent the regulatory control on Chms, it might have negative impact on the import of

Action

Chms to Hong Kong. The Ombudsman took note of Members' concerns.

34. In this connection, Mr CHAN Han-pan enquired as to when the Office's direct investigation into the Government's regulation of unregistered proprietary Chinese medicines would be completed. The Ombudsman advised that due to the complexity of the subject and the need to obtain more information for examination, the Office had not yet completed the investigation. She assured Members that the Office would announce the results of the investigation once it was completed.

(e) Issues relating to the Development Bureau's proposal for adopting the "Modular Integrated Construction" method

35. Dr Helena WONG said that in the wake of the "excess-lead-in-water" incident, HD had already, from the safety perspective, undertaken not to use in future projects precast units with pre-installed water pipes to prevent the use of leaded soldering materials and non-conforming pipe fittings. Yet, she was concerned that the Development Bureau ("DEVB") seemed to be oblivious to the above incident and maintained a stance different from that of HD as to pilot the adoption of "Modular Integrated Construction" ("MiC") in public projects in which prefabricated modules with pre-installed water pipes would be transported to local construction sites for installation. Since those prefabricated modules with pre-installed water pipes were produced in areas outside Hong Kong such as the Mainland, it would be difficult to conduct checking for quality assurance. Should there be non-compliant water pipes in the prefabricated modules, it was also difficult to take legal action against the suppliers in the Mainland as Hong Kong's judicial system was different from that of the Mainland. Also, the replacement of non-compliant water pipes would not only involve public moneys but also bring about considerable nuisance. In anticipation of the problems which might arise from the use of prefabricated modules with pre-installed water pipes, she requested the Office to look into the matter. She stressed that DEVB should only consider the use of prefabricated modules without pre-installed water pipes or even pre-installed wiring for the sake of quality control.

Action

36. The Ombudsman said that the Office would examine the issue in the light of Dr WONG's above concerns. In this respect, Mr SHIU Ka-fai drew The Ombudsman's attention that in view of the high construction costs in Hong Kong and hence high property prices, the purpose of promoting MiC was to achieve cost-effectiveness. Moreover, be they pre-installed in prefabricated modules or assembled on site, water pipes nowadays were usually embedded in the walls of the buildings for aesthetic purpose. Should there be a need to check on the water quality, water samples could be taken from the pipes, and water pipes would only be removed if found defective. The Ombudsman took note of the information provided by Mr SHIU.

(f) Issues relating to sexual harassment of persons in custody

37. Dr Helena WONG shared with the meeting that she had received complaints from several female inmates of Lo Wu Correctional Institution about sexual harassment by another female inmate. Since the Correctional Services Department ("CSD") had not seriously followed up their complaints and simply separated the harasser from them without putting in place measures to prevent recurrence, they sought the Police's assistance but to no avail because no criminal liability was involved. As the Sex Discrimination Ordinance (Cap. 480) did not cover sexual harassment between inmates, and CSD did not have any mechanism for prevention of the occurrence and handling of such kind of complaints and continued to subject inmates to a sexually hostile environment such that transparent partitions were used in shower cubicles, which failed to protect inmates' privacy and could give rise to harassment opportunities, she requested the Office to launch a direct investigation to probe into whether CSD had formulated any policy against sexual harassment amongst inmates, properly educated its staff and inmates about the issue and devised measures to protect inmates' privacy with a view to minimizing chances for sexual harassment.

38. The Ombudsman said that although the Office had not received any complaint from inmates in this respect, it would take up Dr WONG's concerns with CSD. She also welcomed Members to provide the Office with further

Action

evidence and information on this subject. Dr WONG indicated that she would provide the Office with the case information to facilitate its follow-up with CSD.

(g) Issues relating to the monitoring of imported food products

39. Dr Helena WONG expressed concern that the Administration had not yet enacted legislation to prescribe the limit on the level of dioxins in hairy crabs. Moreover, in spite of the adoption of an action level of 6.5 picograms toxic equivalent per gram (6.5 parts per trillion) of the food sample (wet weight) for dioxins in the edible portion of hairy crabs, the Centre for Food Safety ("CFS") failed to communicate properly with the Mainland authorities to ensure that the latter adopted the same regulatory standard for hairy crabs such that dioxin would be tested before health certificates were issued and hairy crabs were exported to Hong Kong. In view of the above, she requested the Office to look into the matter.

40. In response, The Ombudsman said that CFS had commenced its seasonal sampling of and inspection on imported hairy crabs. Should there be unsatisfactory samples, it would follow up with the concerned importers. Moreover, according to CFS, the Mainland authorities planned to include dioxins as a chemical material to be routinely tested in food before export. Since detailed technical studies on the testing standards and methods for dioxins would be conducted by local and Mainland experts, she considered that it would help address Dr WONG's concern on the difference in the regulatory standards adopted by the two places.

41. In this connection, Mr SHIU Ka-fai shared with the meeting that two local importers who had been prosecuted for sale of food unfit for human consumption (i.e. hairy crabs containing dioxins at a total level exceeding CFS's aforesaid action level) were not found guilty on the respective grounds that there might be health impact only if 47 hairy crabs with dioxins exceeding CFS's action level were consumed within four months, and that the announcement on the adoption of the current action level was made only after CFS had noted that there were hairy crabs with dioxins exceeding its action level. Since hairy

Action

crabs were usually purchased alive for consumption, he considered that CFS should expedite its currently lengthy testing procedures on hairy crabs.

42. Regarding the Brazilian meat incident in March 2017 in which CFS had, in the light of the Brazilian authorities' investigation into the corruption/misconduct of their food safety control officials, imposed a temporary ban on the Brazilian frozen and chilled meat and poultry meat as well as the subsequent incident in which a health certificate accompanying a consignment of frozen chicken feet imported from Brazil which was pet food was verified to be falsified, Dr Helena WONG expressed grave concern that CFS did not have any mechanism to detect the authenticity of the health certificates issued by the authority of the place of origin. Instead, it had to route through the Consulate General of Brazil in Hong Kong to follow up on the above incidents which was time consuming, and the problem foods might have already entered the local market. Since FHB was considering to scale down the number of Brazilian plants authorized to export meat to Hong Kong from several hundreds to 80 in order to strengthen the import control of Brazilian food products, she requested The Ombudsman to follow up the issue with the Administration.

43. The Ombudsman said that in response to the above incident in March 2017 involving the selling of rotten and suspected carcinogenic meat, CFS had already initiated discussions with the Brazilian authorities to further improve the import arrangements for Brazilian frozen meat and poultry. In addition, CFS proposed to reduce the number of Brazilian plants allowed to export food products to Hong Kong to 80, and gauged the industry's views on its proposal in November 2017 with a view to striking a balance between stronger safeguard for food safety and provision of a business-friendly environment for the industry. She hoped that CFS's proposal could help enhance the safety and quality of food products imported from Brazil.

44. On CFS's above proposal for reducing the number of Brazilian plants from around 400 to 80, Mr SHIU Ka-fai said that he did not agree to it as it might not be an effective safeguard for food safety, not to mention that reduction in supply would drive up the price. Also, such proposal would deal a blow to many small and medium enterprises currently

Action

engaging in the trade as they would be forced to close down. As an effective measure to ensure food quality, he considered that CFS should step up its surveillance efforts by conducting sampling checks on frozen and chilled meat upon their arrival in Hong Kong and impounding the problem foods or even penalizing the concerned importers.

45. Dr Helena WONG opined that since food safety was of paramount importance to public health and there were inadequacies in the prevailing surveillance regime, it was vital to exercise control at source by allowing only 80 Brazilian plants to export food products to Hong Kong and screening out substandard ones. She considered that the food products offered by 80 Brazilian plants should provide sufficient supply to meet the local demand. Nevertheless, CFS should make clear of the criteria for selecting Brazilian plants authorized to export food products to Hong Kong, such as whether it was on the basis of their hygiene conditions, food safety standards or probity records.

46. The Ombudsman noted Members' concerns and indicated that the Office would keep a close watch on the development of the issue.

IV. Any other business

Request for direct investigation in relation to the Hong Kong Planning Standards and Guidelines

47. Mr CHAN Han-pan was dissatisfied that the Government failed to provide sufficient car parking spaces near railway interchange stations to address the needs of residents living in the New Territories. Moreover, subsequent to the review of the Hong Kong Planning Standards and Guidelines ("HKPSG") in 2014, it cut back further the provision of car parking spaces, which aggravated the problem of shortage of car parking spaces. He also expressed grave concern on the inadequacies of HKPSG in stipulating the provision of football pitches, basketball courts and community halls to meet residents' demand. As such, he called on The Ombudsman to conduct a direct investigation in relation to HKPSG.

Action

48. The Chairman echoed that in spite of the increase in number of vehicles, the planning standards and guidelines on the provision of car parking spaces as stipulated in HKPSG had not been updated accordingly. As a result, there was serious shortage of car parking spaces across different districts. She was of the view that The Ombudsman should look into the matter to ascertain whether there was any maladministration on the part of the Government. In this connection, she shared with the meeting that the Administration usually made use of the planning standards and guidelines of HKPSG as an excuse for not providing community facilities such as community halls and medical and related facilities in new development areas until the population had reached a certain size. However, it would result in delay in providing such facilities to address residents' needs. She hoped that The Ombudsman would follow up the issue with the Administration as well.

Funding schemes for youth exchange and internship in the Mainland

49. Dr Helena WONG said that she had received complaints in relation to the captioned schemes sponsored by the Home Affairs Bureau and the Commission on Youth about inappropriate arrangements such that the participants had been accommodated at love hotels and hence the sexual assault of a participant. Moreover, the internship placements offered to the participants in the Mainland were not relevant to their studies. Since the Government had allocated abundant financial resources for launching the above funding schemes, and the inappropriate arrangements made by non-governmental organizations ("NGOs") receiving sponsorship would entail the negative impression of the participants, she requested The Ombudsman to examine the prevailing mechanism for the vetting, approving and monitoring of NGOs to ensure that the latter could duly fulfill the sponsorship requirements and problems, if any, encountered by participants could be brought to light and rectified.

50. The Ombudsman noted Dr WONG's concerns, and invited her to provide the Office with further information on the issue or refer the aggrieved participants to the Office for direct follow-up.

Action

51. The meeting ended at 1 pm.

Complaints and Resources Management Division
Legislative Council Secretariat
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