

立法會
Legislative Council

LC Paper No. CRM 340/18-19
(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 Friday, 7 December 2018, at 10:45 am
in Conference Room 1, 2/F, Legislative Council Complex**

Members present : Hon Starry LEE Wai-king, SBS, JP (Chairman)
Hon WONG Ting-kwong, GBS, JP
Hon Claudia MO
Hon YIU Si-wing, BBS
Hon Charles Peter MOK, JP
Hon CHAN Han-pan, BBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon HO Kai-ming
Hon Wilson OR Chong-shing, MH
Dr Hon Pierre CHAN
Hon HUI Chi-fung
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin

Attendance by invitation : Ms Connie LAU Yin-hing, JP
The Ombudsman

Mr SO Kam-shing
Deputy Ombudsman

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 Erica WONG
Senior Council Secretary (Complaints and Resources
Management) 1

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The Chairman welcomed Ms Connie LAU, The Ombudsman, Mr SO Kam-shing, Deputy Ombudsman, and Mr Frederick TONG, Assistant Ombudsman, 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 108/18-19(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 108/18-19(01). The salient points were highlighted below:

(a) Reporting year of 2017-2018

- (i) A total of 11 424 enquiries and 4 829 complaints were received, and 4 770 complaints were concluded. Of the cases screened in for processing, 88.3% were concluded within three months, 11.3% were concluded in three to six months, and 0.4%

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took more than six months to conclude due to reasons such as case complexity, etc. A record high of 12 direct investigations were completed and announced, and 93.8% of the 209 improvement recommendations made by the Office were accepted for implementation.

- (ii) A record high of 237 cases (8.7%) were handled by way of mediation. The average processing time of a mediation case was about 15.7 days and over 86.5% of the mediated cases were completed within one month. More than 50 cases (21.1%) were resolved quickly within a week. To encourage more Government departments and public organizations to resort to the Office's mediation service, a new award on mediation for a public organization under The Ombudsman's Awards Scheme was introduced to acknowledge the organization for its excellence in mediation.

- (iii) A total of 91 complaints about access to information were received. Of the 75 complaints pursued and concluded, inadequacies were found on the part of Government departments/public organizations in 33 cases (44%), which reflected that there was still reluctance among certain Government departments and public organizations to release information, or a lack of thorough understanding of the spirit and principles of the Code on Access to Information. The Ombudsman had, since 2014, urged the Government to seriously consider introducing a law on access to information, public records and archives, and the Law Reform Commission ("LRC") published two consultation papers on 6 December 2018 to invite public views on "Access to Information" and "Archives Law". The Office would keep in close view of the development.

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(b) First seven months of 2018-2019

A total of 6 081 enquiries and 2970 complaints were received. Five direct investigations had been completed and their findings announced, while 15 were still in progress.

(c) To help foster a positive complaint culture, the Office would launch a new publicity campaign with the theme "Positive Complaint Culture for Better Administration".

Discussion

The work of the Office

3. Mr Jeremy TAM enquired as to whether the Office had ever, due to limited resources or restriction imposed by The Ombudsman Ordinance (Cap. 397) ("the Ordinance") or other legislation, encountered difficulties in its investigation work.

4. The Ombudsman assured that the Office had not encountered major difficulties in its investigation work as Government departments and public organizations under complaint had, so far, been co-operative and responsive to the Office's inquiries. This could be reflected in the high percentage of acceptance of the Office's recommendations (i.e. 93.8% in 2017-2018) for implementation by the concerned Government departments and public organizations. She remarked, however, that since some of the recommendations necessitated a change in policy or law, it might take longer time for implementation and hence the possible public misconception about the Office's difficulties in taking forward its recommendations. Regarding the Office's manpower resources, she advised that since the Office had resorted more to the use of mediation as an alternative and efficient method for resolving complaints, certain manpower resources could be saved for other duties.

Monitoring of imported food products

5. Dr Helena WONG expressed grave concern that in spite of the Office's direct investigation into the system of safety control for imported fruits and vegetables by the Food and Environmental Hygiene Department ("FEHD"), the latter

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seemed to be oblivious to the recommendations made by the Office as there had not been any improvement in its system of safety control for fruits and vegetables imported by sea, land and air. The Director of Audit also identified in Report No. 71 published in October 2018 numerous problems related to FEHD's management of food safety and import control of food. In view of the above, she enquired as to how the Office could effectively monitor FEHD to ensure the implementation of its recommendations and the measures to be taken by The Ombudsman if FEHD failed to implement the recommendations.

6. The Ombudsman assured that the Office would closely monitor the implementation progress of its recommendations, and the concerned Government departments would inform the Office of the difficulties, if any, encountered when implementing the recommendations. Should any Government department fail to implement the recommendations without reasonable explanation, she might submit a report to the Chief Executive. In respect of FEHD, Deputy Ombudsman advised that upon the issuance of the said direct investigation report, the Office had been monitoring on a regular basis, i.e. three to six months, the implementation progress of the recommendations. Given the issuance of Report No. 71 by the Director of Audit, the Office would follow up further with FEHD on its safety control for imported fruits and vegetables.

7. In response to Dr Helena WONG's request for copies of FEHD's replies to the Office on its implementation progress of the recommendations, The Ombudsman said that the Office would contact Dr WONG after the meeting.

Direct investigations

8. Mr YIU Si-wing enquired as to the reason for achieving a record high of 12 direct investigations in 2017-2018 in face of the immense work pressure of the Office. He also sought clarification on whether there was any target on the number of direct investigations to be completed each year.

9. The Ombudsman advised that there had been gradual increase in the number of direct investigations completed over the years from seven in 2014-2015, eight in 2015-2016, 11 in 2016-2017 to 12 in 2017-2018. This was partially due to the

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use of mediation as an alternative and speedy method to resolve complaints and hence manpower resources could be deployed for undertaking more direct investigations. Moreover, she considered it more effective to conduct direct investigations for identification of systemic or widespread deficiencies for rectification. Since direct investigations were conducted in response to issues of public interest and concern, there was no upper or lower limit on the number of direct investigations to be launched by the Office every year.

10. Mr Wilson OR enquired about the criteria under which direct investigation would be launched. The Ombudsman advised that one of the major considerations was whether the matter involved significant public interest and concern. In this respect, she welcomed Members to provide the Office with district problems for consideration of whether direct investigations were warranted.

Facilities provided in new development areas

11. Mr Wilson OR expressed concern that due to poor planning, requisite facilities were not provided in new development areas in a timely manner. He cited for illustration the delay in providing primary school facilities for students residing in Shui Chuen O Estate in spite of the intake of residents three years ago, as well as the undesirable impact of inadequate provision of public transport services on the daily life of residents of new public housing estates such as On Tai Estate and On Tat Estate. He urged The Ombudsman to consider initiating direct investigation into the above issues.

12. The Ombudsman remarked that the Office was also heedful of the untimely provision of facilities in new development areas which had brought about inconvenience to students as recently covered by the media. Subject to receipt of more concrete information on the subject from, say, Members, the Office might consider launching a direct investigation into the matter.

Complaints not entertained by the Office and complaints about difficulties in opening bank accounts

13. Mr WONG Ting-kwong enquired as to the circumstances under which complaints would not be entertained by the Office. The Ombudsman advised that pursuant to the

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Ordinance, the Office could only handle complaints lodged by aggrieved persons on maladministration against Government departments and public bodies listed in Part 1 of Schedule 1 to the Ordinance. For fairness to the Government department/public body under complaint, follow-up on a complaint in the form of inquiry, mediation or full investigation would only be undertaken if there was prima facie evidence to justify so. Nevertheless, she assured that the Office would, as far as possible, follow up on complaints received.

14. In this respect, Mr Wong Ting-kwong shared with the meeting the complaints he had received from members of the public against the Office for refusing to pursue their complaints about difficulties in opening bank accounts. He enquired whether the Office would consider enhancing publicity to increase public awareness on the types of complaints falling outside the Office's jurisdiction and hence not pursued. The Ombudsman explained that since banks were not included in Part 1 of Schedule 1 to the Ordinance, complaints against banks could not be handled by the Office. She remarked further that the Office attached significance to the publicity on the Office's jurisdiction, and in response to Mr WONG's concern, she undertook to enhance further the Office's publicity efforts via different channels.

15. Noting that the Office was not empowered to deal with complaints against banks, Mr CHAN Han-pan enquired whether the Office would take up the issue with the Administration or the regulatory authority to ascertain as to whether they had duly played their role to facilitate the opening of bank accounts by members of the public as it was part of the daily life to have bank accounts in Hong Kong. The Ombudsman remarked that although complaints against banks would not be handled, complainants would be advised to approach the regulatory authority, i.e. the Hong Kong Monetary Authority ("HKMA"), for assistance. If complainants were not satisfied with HKMA's follow-up on their complaints, they could approach the Office for assistance.

Access to information, law on public records and archives, and penalty for violation

16. In response to Ms Claudio MO's concern that LRC did not take on board in its consultation paper on "Access to Information" released in December 2018 the Office's

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recommendation set out in the direct investigation report on "Access to Information Regime in Hong Kong" published in 2014 (i.e. the Government should consider introducing a law to underpin citizens' right of access to information, covering information held by both policy bureaux/Government departments and public organizations, to be overseen by an independent body with enforcement powers), The Ombudsman remarked that LRC recommended instead in the said consultation paper that the review of application decisions on access to information would be referred to The Ombudsman rather than creating a new information commissioner's office, and the relevant enforcement powers to issue decision notice and enforcement notice should also be given to The Ombudsman. Since such recommendation had implication on its staffing resources, the Office had to study it carefully.

17. Ms Claudio MO sought clarification on whether the Office considered that violation of the freedom of information law should be criminalized but not that for the archives law. Deputy Ombudsman advised that the Office considered it paramount to introduce a law on public records and archives as well as a law to underpin citizens' right of access to information. It was opened minded towards the penalty for violation.

Identification of aggrieved persons and mode of communication with complainants

18. Mr AU Nok-hin shared with the meeting his experience of lodging complaints with the Office during which three cases had to be opened for follow-up on the same issue for the reason that the Office had failed to identify him as the aggrieved person and hence the delay in undertaking investigation. He considered that good communication between the Office and complainants could help dispel unnecessary misunderstanding and thus expediting the investigation process. Moreover, he remarked that the Office should stick to the same mode of communication (i.e. either letter or e-mail) with a complainant to facilitate the latter's receipt and retrieval of the correspondence from the Office .

19. Deputy Ombudsman undertook that the Office would take note of Mr AU's concerns for improvement. He added that since the Ordinance mandated that complaints investigated by the Office had to be lodged by the aggrieved persons, the Office

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had to communicate with the complainants to ascertain so before investigation could be undertaken.

E-sports industry and electric private vehicles

20. Mr Charles MOK enquired as to whether The Ombudsman would, upon investigation of complaints, recommend the Government to revamp outdated law or introduce new legislation to, say, regulate new industries such as e-sports industry. The Ombudsman affirmed that as and when necessary, the Office would, particularly upon completion of direct investigations, recommend the Government to change the policy or legislation which failed to keep pace with the times and gave rise to numerous problems. She quoted for example that upon completion of the direct investigation on the Government's regulation of guesthouses in 2014, the Office considered that the Home Affairs Department should introduce legislative amendments to address the community concern on the impact of the operation of guesthouses on residents' daily life. The Administration took note of the recommendation and introduced legislative amendments to strengthen the regulation and control of hotels and guesthouses.

21. In further response to Mr Charles MOK's concern on electric private vehicles, The Ombudsman remarked that the Office was conducting a direct investigation into the Government's planning and arrangements for ancillary facilities for electric private vehicles to examine whether there were any improprieties. In this connection, she welcomed Members to provide information on issues of public concern for the Office's consideration of whether direct investigations should be initiated.

Tree management, animal welfare and District Councils' vetting and allocation of funding resources

22. Mr CHAN Han-pan expressed concern over the lack of co-ordination among and monitoring of Government departments on tree management, as a result of which Government departments adopted their own ways in managing trees. To cite for illustration, while the Leisure and Cultural Services Department ("LCSD") had taken heed of his advice to replace a tree species known as *Leucaena leucocephala* which could easily be blown down during typhoons and might bring about casualties, the Highways Department ("HYD") and the

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Lands Department ("LANDS") did not follow suit due to limited resources.

23. The Ombudsman responded that the Office also attached great importance to tree management, and hence two direct investigations were conducted in 2016 with respect to the Government's tree management regime and practices as well as its handling of four stonewall trees along Bonham Road. The Office noted with concern the problems arising from the lack of central regulation of the tree management work of various Government departments, and would continue to follow up in this regard.

24. Mr HUI Chi-fung said that according to his observation, the recommendations made by the Office upon completion of direct investigations focused more on improvements to administrative procedures than policy change or legislative amendment. For example, despite that two direct investigations had been conducted respectively on the Government's handling of four stonewall trees along Bonham Road in 2016 and two trees in front of Tang Chi Ngong Building of the University of Hong Kong in 2018, as a result of which the communication between the Administration and District Councillors had enhanced, there had not been any policy change as the structure of the Tree Management Office ("TMO"), which had failed to act as the central co-ordinator to oversee tree management work, remained unchanged. Moreover, there were countless complaints about animals which died from animal cruelty and the ineffectiveness of the Police in taking enforcement action. In this regard, he enquired whether The Ombudsman would consider recommending the Government to introduce legislation on tree management and animal protection, as well as to reform TMO.

25. The Ombudsman affirmed that where necessary, the Office would, upon completion of direct investigations, recommend the Government to amend outdated laws. In respect of tree management, the Office had, upon completion of the aforesaid direct investigation on the Government's tree management regime and practices, recommended, inter alia, that the Government should legislate for comprehensive and more effective regulation of tree management and preservation in Hong Kong. Likewise, the Office would also press for introduction of animal welfare legislation if considered necessary.

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26. Mr HUI Chi-fung also suggested The Ombudsman to look into issues relating to the lack of transparency on District Councils' vetting and allocation of funding resources and the inadequate monitoring of the Home Affairs Department in this respect. The Ombudsman noted Mr HUI's suggestion.

Effectiveness of the direct investigations conducted in relation to water seepage problem and fly-tipping of construction waste

27. Referring to The Ombudsman's undertaking at the last meeting that the Office would seriously consider whether to initiate a direct investigation into the problem of water seepage which had been causing great nuisance to the public, Mr Wilson OR enquired whether such a direct investigation would be conducted.

28. The Ombudsman responded that pursuant to the last meeting when various Members had raised concern over water seepage problem, the Office had conducted preliminary inquiry into the issue and announced, in November 2018, that it would launch a direct investigation to examine the effectiveness of the Joint Office for Investigation of Water Seepage Complaints ("JO") in the handling of water seepage complaints with a view to exploring with the Joint Office better ways to effectively resolve water seepage complaints. The investigation was underway.

29. The Chairman expressed concern that notwithstanding the completion of a direct investigation into the effectiveness of JO in the handling of seepage complaints and the recommendations made by the Office in 2008, the desired result for enhancing JO's effectiveness could not be achieved and hence the need for The Ombudsman to announce in November 2018 another direct investigation into JO's effectiveness. She further pointed out that although the Office conducted a direct investigation into the Government's control over fly-tipping of construction waste in February 2018 and recommended, inter alia, that the Environmental Protection Department ("EPD") should expedite the study on the operational details of the mandatory use of GPS technology on construction waste collection vehicles and push forward with the necessary legislative amendments without delay as well as step up inspections and enforcement action outside office hours

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and during weekends and holidays as necessary, there had not been improvement as there were still a lot of fly-tipping activities in urban areas. She enquired as to how the Office could ensure the effectiveness of the direct investigations so conducted.

30. The Ombudsman explained that some of the Office's recommendations took time to implement such as those which called for policy change or inter-departmental co-ordination. The Office would continue to be persistent in ensuring the implementation of its recommendations. Regarding the control over fly-tipping, the Office would follow up closely with EPD on its implementation of the recommendation on enhanced inspection outside office hours and during weekends and holidays. For more effective monitoring over the Administration's implementation of the Office's recommendations, the Chairman suggested The Ombudsman to report to Members at future meetings recommendations not yet implemented by the Administration. The Ombudsman noted the Chairman's suggestion.

III. Discussion items raised by Members

(LC Paper No. CRM 108/18-19(01))

(a) The Government's follow-up work in the wake of Super Typhoon Mangkhut

(i) Fallen trees and public transportation services

(ii) Handling of broken tree branches after the typhoon

31. Dr Helena WONG expressed concern that upon the passage of Super Typhoon Mangkhut, the Government did not recycle fallen trees for good use in accordance with the established policy. They were either dumped in landfills or left unattended along roadsides which emitted smell. Moreover, although the Government had made good preparatory arrangements before the typhoon approached, it failed to make sensible decision upon the passage of the typhoon, as a result of which members of the public had to get back to workplaces even though public transport services were yet to resume normal and hence they were crammed in stations for hours. According to The Ombudsman's written reply prior to the meeting, the Office would keep watch on the review undertaken by the Secretary for Security on the Government's approach in

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handling super typhoons before deciding whether a direct investigation into the matter would be initiated. In this respect, she enquired about the criteria for assessing whether a direct investigation into the matter would be warranted.

32. Mr WONG Ting-kwong raised the question relating to the handling of fallen tree branches on behalf of Mr Holden CHOW who was unable to attend the meeting. Mr WONG said that after the onslaught of Super Typhoon Mangkhut, many broken tree branches piling along roadsides had not been cleared, causing great inconvenience to the public. Under the current regime, trees were managed by various Government departments and there was a lack of effective co-ordination among the departments in respect of tree clearance. He enquired whether The Ombudsman would consider initiating a direct investigation into the Government's follow-up work on the handling of fallen trees after the passage of typhoons, particularly on areas related to human resources, equipment and inter-departmental co-ordination.

33. The Ombudsman responded that the Chief Executive had appointed the Secretary for Security to conduct a comprehensive review on the Government's approach in handling super typhoons, vis à vis the relief and restoration work upon passage of typhoon. The review covered a wide ambit which included, inter alia, clearance of blockages on roads caused by fallen trees, resumption of public transport services as well as dissemination of information within the Government and to the public with a view to identifying areas for improvement. The Office would keep in close view the matter. Upon publication of the review report, the Office would assess whether feasible measures were put forth for enhancing the effectiveness in conducting relief work with a view to ascertaining whether there were any areas which required the Office's follow-up.

34. The Chairman hoped that the Office would pay active attention to the review report and identify areas for follow-up where necessary. In this connection, she remarked that due to the massive tree collapse, there was extensive clean-up work to be undertaken by various Government departments such as FEHD, HYD, LANDS and LCSD. Yet, owing to the disparity in manpower and resource deployment among those departments, some fallen trees and broken branches had yet to be cleared. As such, she enquired whether The Ombudsman

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would consider launching a direct investigation to specifically probe into the co-ordination among Government departments on clearing fallen trees upon the passage of Typhoon Mangkhut.

35. Mr Wilson OR also expressed concern that upon the onslaught of Typhoon Mangkhut, there were numerous tree collapse incidents resulting in loss of lives and road blockages in various districts. He considered that the function of TMO as the central co-ordinator of day-to-day tree management work as well as tree safety work should be reviewed for enhancement, and hoped that The Ombudsman would look into the matter.

36. The Ombudsman agreed that it was undesirable for broken tree branches piling along pavements and roadsides as it might pose risk to pedestrians and road users. The Office would conduct a preliminary inquiry to ascertain whether a direct investigation into the above matter would be launched.

(iii) Co-ordination mechanism for handling traffic incidents

37. Mr WONG Ting-kwong raised the question on behalf of Mr Holden CHOW who was unable to attend the meeting. Mr WONG said that upon the onslaught of Super Typhoon Mangkhut, road traffic was chaotic due to road closures caused by fallen trees and railroad incidents. On 16 October 2018, there was even an incident involving service disruption of four MTR lines which had seriously affected road traffic condition. Although the Government had activated the Emergency Transport Co-ordination Centre ("ETCC"), the latter failed to function as desired as members of the public could not get hold of real time traffic information. In view of the above, he enquired whether The Ombudsman would consider initiating a direct investigation into the matter.

38. The Ombudsman advised that although the simultaneous break-down of four MTR lines on 16 October 2018 was a serious service disruption, the Office was not empowered to conduct investigation against the MTR Corporation Limited since it was not within the Office's jurisdiction under the Ordinance. Nevertheless, subject to obtaining further information relating to such as the role and work arrangements of ETCC during the above incident, the Office would consider whether a direct investigation against the

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Transport and Housing Bureau and the Transport Department would be initiated.

(b) Follow-up work in respect of misconnection of sewers

39. Dr Helena WONG expressed that EPD was extremely slow in handling cases relating to misconnection of sewers as only several cases, on average, were handled each year. Effluent had been discharged continuously into the sea via storm water drains, resulting in not only pollution of local marine waters but also seawater odour as well as serious odour in certain districts such as the roadside of Sham Shui Po, the seaside of Hung Hom and along Hoi Sham Park and Hung Hom Ferry Pier which dampened the beautiful scenery of the nearby promenade. As such, she enquired whether The Ombudsman would consider initiating a direct investigation into the matter.

40. The Ombudsman responded that the Office was now conducting a preliminary inquiry into the Government's handling of the problem relating to misconnection of sewers with a view to deciding whether further investigation was warranted. She welcomed Members to provide the Office with further information on this subject. In this respect, Dr Helena WONG remarked that the Drainage Services Department and EPD were well aware of the districts which had relatively more serious problems about sewer misconnection. Yet, they had not actively rectified the problems in an expeditious manner nor taken enforcement action against illegal discharge from buildings and shops. As such, she suggested the Office to approach DSD and EPD to solicit more information about the subject. The Ombudsman noted Dr WONG's suggestion.

(c) Issues relating to the handling of mosquito and rodent problems

41. Dr Helena WONG shared with the meeting that the Government had, since 2004, fully implemented the monitoring work on *Aedes albopictus*. There were 57 surveillance locations in the territory in which data on the breeding of mosquitoes and insects were collected via scientific methods for implementation of corresponding anti-mosquito measures. Yet, despite that there had earlier been a lot of cases of dengue fever in Wong Tai Sin and Cheung Chau, the respective Ovitrap Indexes ("OI") were only 21.8% and 11.8%, indicating a phenomenon of "serious mosquito problems in low index

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areas". As discovered by the media, the mosquito black spots in those two districts fell outside the coverage of the oviposition traps, which resulted in the Government's misjudgement of the epidemic situation. Similarly, the reliability of the Rodent Infestation Rate ("RIR") for effective formulation of anti-rodent measures was also in doubt because the statistics collected via the non-scientific method (i.e. setting baits in selected areas and compiling statistics on the ratios of the baits bitten by rodents) were misleading. In view of the above, she enquired whether The Ombudsman would consider initiating a direct investigation on the effectiveness of OI and RIR in reflecting the seriousness of the mosquito and rodent problems in individual districts as well as the anti-mosquito and anti-rodent measures currently adopted by the Government in combating the problems.

42. Mr HO Kai-ming considered that the ineffectiveness in handling the rodent and mosquito problems was also attributable to the shirking of responsibilities among the concerned parties. He was of the view that FEHD should step up enforcement action by, say, imposing penalty on the Link Asset Management Limited ("LINK") and owners' corporations of estates under the Tenants Purchase Scheme instead of just advising them to clear the rubbish. Concerning vacant Government land in urban areas, he noted with concern that upon receipt of rodent and mosquito complaint cases, LANDS only deployed its contractor to cut the grass on the land instead of conducting anti-rodent and anti-mosquito measures. It was often left to the concerned District Councils and the Home Affairs Department to tender for contractors to conduct disinfestation operations. As such, Mr HO requested The Ombudsman to look into the inaction of the above parties.

43. Mr OR Chong-shing was of the view that the ineffective handling of rodent and mosquito problems was mainly caused by the following:

- (a) lack of co-ordination among Government departments on rodent and mosquito disinfestation operations, and lack of effective monitoring of the disinfestation work undertaken by outsourced contractors;
- (b) outdated technologies for tracking mosquitos and hence the public's criticism for failure of real time handling of the problem; and

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- (c) lack of public participation in the anti-mosquito and anti-rodent campaigns launched by FEHD.

44. The Chairman echoed that FEHD should employ updated technologies to enhance its effectiveness in handling rodent problem. Moreover, consideration should be given to setting an indicator for assessing the effectiveness of FEHD's control work. She further said that apart from the mosquito problem, the infestation of biting midges had also been causing concern to the public. At the meeting held 12 December 2017, the Panel on Food Safety and Environmental Hygiene passed a motion urging the Government to, inter alia, examine the inclusion of biting midges under the prevailing surveillance system and formulate relevant index to map out prevention and control strategies in response to index changes. Yet, the Government did not follow up on the motion. As such, she requested The Ombudsman to actively consider investigating the Government's handling of not only rodent and mosquito problems but also the infestation problem of biting midges.

45. Ir Dr Hon LO Wai-kwok also expressed concern that mosquitoes could easily lay eggs on the surface of stagnant water while large rodents were spotted in areas where there were a lot of food premises. Yet, the Government had failed to map out concrete plan for effective handling of the mosquito and rodent problems.

46. The Ombudsman thanked Members for the useful information so provided. She advised that the Office was now conducting a preliminary inquiry into the Government's handling of mosquito and rodents which included areas such as the appropriateness of the location of oviposition traps, the ever low RIR, and new technologies for rodent disinfestation.

47. Mr CHAN Han-pan considered that the existing mechanisms employed by FEHD in handling mosquito and rodent problems were far from satisfactory and the rodent disinfestation measures were outdated. He hoped that the Office would, upon the preliminary inquiry into FEHD's handling of mosquito and rodent problems, seriously consider conducting a direct investigation into the issue. He further opined that environmental hygiene was conducive to successful rodent control. Yet, the sanitary condition of streets in the territory had been declining. He called on the Office to look

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into the environmental hygiene condition as well when conducting a direct investigation into the mosquito and rodent problems. The Ombudsman took note of Mr CHAN's views.

(d) Issues relating to the procedures for introduction of new drugs by hospitals

48. Dr Helena WONG expressed concern over the prevailing cumbersome procedures for handling applications for listing new drugs on the "Drug Formulary" ("DF") of the Hospital Authority ("HA"). Approval for applications initiated by clinicians of one of the hospitals under a HA cluster had first to be sought from the Drug and Therapeutics Committee ("DTC") of the hospital to which the clinicians belonged. If the applications were approved by the Drug Advisory Committee ("DAC") of HA, clinicians of individual hospitals had to submit application to DTCs of the hospitals to which they belonged for consideration of whether such new drugs would be approved for use in the concerned hospitals. As a result, some clinicians who did not wish to go through such time consuming procedures might choose not to submit applications for listing commonly used new drugs on DF of their hospitals. There were even situations where certain new drugs were approved for use in one hospital but not in another, and hence some patients were denied access to the new drugs. For the sake of patients' welfare, she enquired whether The Ombudsman would consider initiating a direct investigation into the above problematic administrative arrangements as well as HA's unreasonable policy on areas such as allowing DTCs to decide on their own the use or otherwise of the new drugs already approved DAC with a view to ensuring that new drugs, once approved for listing on DF by DAC, would be made available in all hospitals for prescription to patients in need.

49. Dr Fernando CHEUNG stressed that it was the Government's public healthcare policy that no one would, due to lack of means, be denied adequate medical treatment which should include drugs considered by doctors as necessary for prescription to patients. Yet, under DF, drugs classified as self-financed items without safety net were not provided as part of HA's standard services nor covered by the standard fees and charges in HA hospitals and clinics. Such an arrangement was in fundamental conflict with the public healthcare policy as patients who could not afford to purchase self-financed drugs would be denied adequate medical treatment. As such, he

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requested The Ombudsman to look into the matter. This apart, he expressed grave concern that under HA's existing mechanism, drugs for treatment of rare diseases at significant high costs were not listed on DF as they were not in line with the principle of cost effectiveness. He urged The Ombudsman to look into the matter to ensure that patients with rare disease could get drugs they needed.

50. The Chairman opined that curation of diseases hinged on the use of effective drugs. Yet, under HA's current mechanism, certain drugs considered to be effective for treating serious diseases such as cancers were categorized as self-financed items. Such an arrangement had aroused public concern, particularly among the middle class as they could not afford the high expenses for self-financed drugs. She considered that drug effectiveness, rather than cost-effectiveness, should be the primary concern for listing new drugs on DF.

51. Dr Helena WONG remarked that of the financial resources obtained by HA each year (i.e. around 70 billion), only a very small portion was used on drugs, resulting in the anomaly of patients being prescribed with drugs at lower cost but with more side effects and patients suffering from rare diseases losing their shirts to purchase self-financed drugs or having to seek assistance from the Samaritan Fund or the Community Care Fund Medical Assistance Programme.

52. The Ombudsman stressed that life was invaluable and patients should not be denied treatment due to lack of means. Pursuant to the Audit Commission's report published in 2016, HA requested all clusters/DTCs to include DF-related issues (including applications for new drug listing) as a standing agenda item for their meetings. HA also shared on the DF webpage of its own intranet the link to the Department of Health's website to keep its staff abreast of the information on newly registered drugs in Hong Kong. Moreover, HA issued an operation circular on the management of non-DF drugs in March 2018, and incorporated such circular into the revised version of the DF Management Manual in April 2018. As for the reason why different drugs were used by hospitals, according to HA, it was because the scope of services provided by hospitals and clinics might vary in the light of regional needs and the division of labour among cluster hospitals, and hence different hospitals and clinics would keep stock of drugs in DF

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according to their service needs. Nevertheless, in the light of Members' above concerns, the Office would continue to gauge more information on the subject and launch a direct investigation if necessary. In this respect, she welcomed Members to provide the Office with specific cases or information on patients' clinical conditions being affected due to their inaccessibility to new drugs.

IV. Any other business

53. Since it was her last meeting with Members during her tenure as The Ombudsman, on behalf of Members, the Chairman thanked Ms Connie LAU for her valuable contributions during her tenure of office.

54. There being no other business, the meeting ended at 12:36 pm.