

立法會
Legislative Council

LC Paper No. CRM 297/20-21
(These minutes have been seen
by The Ombudsman)

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**Minutes of meeting between Legislative Council Members
and The Ombudsman
on Tuesday, 30 March 2021, at 10:45 am
in Conference Room 1, 2/F, Legislative Council Complex**

Members present : Hon Starry LEE Wai-king, SBS, JP (Chairman)
Hon Steven HO Chun-yin, BBS
Hon YIU Si-wing, BBS
Hon CHAN Han-pan, BBS, JP
Hon Elizabeth QUAT, BBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai, JP
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying, JP
Hon LAU Kwok-fan, MH
Dr Hon CHENG Chung-tai

Attendance by invitation : Ms Winnie CHIU Wai-yin, PDSM, PMSM
The Ombudsman

Mr SO Kam-shing
Deputy Ombudsman

Mr CHAK Shui-hang
Assistant Ombudsman 1

Ms Sara TSE Yee-man
Assistant Ombudsman 2

Staff in attendance : Ms Amy YU
Principal Council Secretary 1

Miss Erin TSANG
Chief Council Secretary (Complaints)

Ms Yvonne YU
Senior Council Secretary (Complaints and
Resources Management) 3

Action

I. Chairman's opening remarks

The Chairman welcomed Ms Winnie CHIU, The Ombudsman, Mr SO Kam-shing, Deputy Ombudsman, Mr CHAK Shui-hang, Assistant Ombudsman 1, and Ms Sara TSE, 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. She 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

(LC Paper No. CRM 167/20-21(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 167/20-21(01). The salient points were highlighted below:

- (a) For the reporting year of 2018-2019, a total of 10 403 enquiries and 4 991 complaints were received, and 4 838 complaints were concluded. The Office completed 12 direct investigations, and 98% of the

253 recommendations made by the Office were accepted for implementation.

- (b) For the reporting year of 2019-2020, a total of 8 581 enquiries and 19 767 complaints were received. Among the complaints received, there were 15 034 topical complaints, many of which were related to the social unrest and the outbreak of the Coronavirus Disease 2019 ("COVID-19"). The Office completed 10 direct investigations, and 98.9% of the 177 recommendations made by the Office were accepted for implementation.
- (c) For the first eleven months of the reporting year of 2020-2021 (i.e. from April 2020 to February 2021), a total of 6 605 enquiries and 29 095 complaints were received. A large portion of the complaints lodged with the Office (i.e. 24 838 cases) were topical complaints. The Office completed seven direct investigations and there were 10 in progress.

Discussion

The work of the Office

3. Noting that the number of complaints lodged with the Office had increased by fold for the past two years, the reason for which was possibly related to the social unrest and the outbreak of COVID-19, Mr YIU Si-wing enquired about the percentage of complaints received by the Office which were associated with the two aforesaid issues. He also sought information on whether the fulfilment of its performance pledges amid the heavy workload was attributable to the increase in the manpower of the Office, if any, and other measures which had been put in place.

4. The Ombudsman responded that for the reporting year of 2019-2020, about 10 000 complaints related to the social unrest were received, which accounted for a high

percentage of complaints lodged with the Office. As for complaints related to COVID-19, it just represented a low percentage of complaints lodged with the Office as only around 700 complaints were received. She remarked that through streamlining the procedures and with the hard work of the staff, the Office was able to fulfil the performance pledges without seeking an increase in manpower to cope with the workload.

5. In further response to Mr YIU Si-wing on the handling of anonymous complaints and form letters, The Ombudsman said that pursuant to The Ombudsman Ordinance (Cap. 397) ("the Ordinance"), The Ombudsman should not undertake investigation into a complaint if it was made anonymously or if the complainant could not be identified or traced. With respect to the handling of the vast number of form letters received which were mostly topical complaints and sent to the Office by means of email, the Office had issued standardized emails requesting the recipients to provide their names and postal addresses before the Office would initiate investigation into their complaints. For those who had not responded to the Office, their cases were closed and no follow-up action was taken.

Direct investigations

6. Mr Wilson OR enquired about the monitoring mechanism in place to ensure that the Office's recommendations made in relation to direct investigations would be duly implemented and hence the efforts spent by the Office on those direct investigations would not be wasted.

7. The Ombudsman advised that under the prevailing practices, apart from the Office's monitoring on a regular basis the progress of implementation of the recommendations, the Administration would, on an annual basis, submit to the Legislative Council ("LegCo") the Government Minute responding to, inter alia, the recommendations made by The Ombudsman in relation to the direct investigations so launched and set out in the Office's Annual Reports. Moreover, the progress on

implementing the recommendations by the concerned departments/organizations would also be subject to scrutiny by the media and LegCo Members.

8. With respect to the guidelines for initiating direct investigations which included, inter alia, the consideration as to whether there were similar investigations undertaken by other organizations, Mr Wilson OR sought clarification on whether the Office would hold back from investigating issues of public concern if, say, the Public Complaints Office of the LegCo Secretariat was following up on the same issues or departmental internal investigations were underway.

9. The Ombudsman clarified that to avoid duplication of efforts, the Office would, before deciding on whether direct investigations into issues of public concern should be launched, ascertain: (a) whether any independent inquiry committee/working group would be set up to probe into/review the issues, or in-depth review would be conducted by the concerned departments/organizations; (b) whether there were any areas not covered by the inquiry/review which warranted the Office's follow-up; and (c) whether the inquiry/review reports would be made available for information of the public.

Direct investigation into the issue of idle flyovers and "bridges to nowhere"

10. With respect to the Office's recommendations made in relation to the direct investigation into the issue of idle flyovers and "bridges to nowhere" as to, inter alia, establish mechanism to regularly review the development status of all idle flyover sections or stub ends, Mr Holden CHOW enquired as to whether the concerned Government department, i.e. the Transport Department ("TD"), had advised the Office of the implementation timetable; and if not, whether the Office would continue to follow up with TD to ensure that its recommendations would be duly implemented.

11. The Ombudsman advised that since the recommendations were mainly in relation to the establishment of a regular review mechanism, the Office would not request TD to apprise it of the timetables for review of the development status of each idle flyover and stub end identified in the direct investigation report. Nevertheless, it was noted that upon completion of the above direct investigation, due follow-up actions were being taken by the concerned Government departments for stub ends which were located in areas with busy traffic and had been idle for long, which included consultation with local residents for taking forward the development plans. She stressed that the Office would request Government departments to advise it on a regular basis the implementation progress of recommendations the Office made until all of them were duly implemented.

Direct investigations into issues relating to water seepage and water dripping from air-conditioners

12. The Chairman remarked that notwithstanding the respective direct investigations conducted earlier by the Office into issues related to water dripping from air-conditioners and water seepage, the problems still persisted which entailed the dissatisfaction of members of the public in the following aspects:

- (a) the delay in conducting effective investigations by the Joint Office for Investigation for Water Seepage Complaints as well as its failure in identifying the source of seepage in most of the complaint cases; and
- (b) the ineffectiveness on the part of the Food and Environmental Hygiene Department ("FEHD") in resolving complaints related to water dripping from air-conditioners.

She enquired whether The Ombudsman had noted that the aforesaid problems still prevailed; and if so, whether the Office would continue to take follow-up actions with the concerned Government departments which, in spite of

their acceptance of the Office's recommendations, still had room for improvement in their handling of those issues. Moreover, she sought information on whether the Office had any mechanism in place to keep the public informed of the implementation progress of the recommendations made by the Office.

13. The Ombudsman affirmed that subsequent to the publication of the reports on the two abovementioned direct investigations in 2018 and 2020 respectively, the Office had been maintaining regular follow-up with the concerned Government departments in respect of the implementation progress of the recommendations so made. Moreover, the Office would keep the public informed, via Facebook, of significant recommendations implemented by the Administration.

The Office's Strategic Plan 2019-2024

14. Noting that the Office had mapped out a strategic plan for 2019-2024 with a view to, inter alia, enhancing the efficiency of its work, Mr Wilson OR enquired as to whether the Office would review the modes of lodging complaints with the Office with a view to providing more simplified ways for members of the public to lodge complaints and hence the enhancement of the open-mindedness and accountability of the Office.

15. The Ombudsman remarked that the Office had been providing a variety of modes to facilitate the lodging of complaints by members of the public. Under the prevailing arrangements, members of the public could lodge their complaints with the Office in person, by post, email, fax, or via the Office's complaint form. Should complainants have difficulty in lodging complaints in writing, they could lodge complaints by telephone. The fact that nearly 20 000 and more than 20 000 complaints were received respectively in the reporting year of 2019-2020 and for the first 11 months of the reporting year of 2020-2011 reflected that members of the public could lodge complaints with the Office easily.

Full investigations

16. Expressing grave concern over some of the conclusions reached upon by the Office in relation to the full investigations so conducted which were ambivalent and might fail to meet public expectation, Ir Dr LO Wai-
kwok sought information on the role and mission adopted by The Ombudsman and the Office.

17. The Ombudsman remarked that the public expectation of the Office was that it should maintain independence, impartiality and objectivity in the course of conducting investigations without fear, rather than the substantiation or otherwise of complaints investigated by the Office. In this respect, she stressed that the Office's conclusions on the complaints so investigated were entirely drawn upon the basis of facts and analysis, and as a result over 60% of the complaints concluded by means of full investigation for the reporting year of 2019-2020 were either substantiated, partially substantiated, or had inadequacies identified even though they were unsubstantiated.

Complaints about Government services in relation to COVID-19

18. Dr CHENG Chung-tai sought The Ombudsman's views on complaints lodged with the Office against Government departments which might have used COVID-19 as an excuse for not taking necessary follow-up actions or not acceding to requests made by members of the public. He also enquired as to how she would set the picture out when preparing the Annual Report 2020-2021 in this respect.

19. The Ombudsman responded that among the 29 095 complaints received for the period from April 2020 to February 2021, about 700 complaints were related to Government services affected by COVID-19. These included complaints related to the quarantine arrangements, the processing of applications for various subsidies under the Anti-epidemic Fund, the delay in postal services, the closure of public facilities, and the

refund arrangements made by the Leisure and Cultural Services Department. She would provide an outline on the handling of those complaints in the Annual Report 2020-2021.

20. Mr SHIU Ka-fai remarked that in spite of the efforts made by the Government in face of COVID-19, the public was not entirely satisfied with some of the measures so introduced which had adversely affected certain businesses or even led to their closure. By way of illustration, karaoke establishments, bars/pubs, clubs, and mahjong premises, etc. had been mandated to be closed for over four months. Although subsidies had been provided under the Anti-epidemic Fund, these were hardly sufficient to help those operators tide over their financial difficulties. In this respect, he enquired as to whether The Ombudsman considered it fair for the Government to provide disproportionate subsidies to those operators who were actually aggrieved persons suffering from the mandatory measure to close their businesses for a long period of time. He also enquired as to how she would take the matter up with the Government for provision of expeditious assistance and enhanced subsidies to those operators.

21. The Ombudsman explained that comments, analysis and recommendations would only be made upon the Office's investigation of a complaint, and she was not in a position to comment on Government policies/measures made in response to the medical judgment related to COVID-19. Nevertheless, she assured that impartial investigation had been made in respect of the aforesaid complaints lodged with the Office which were related to Government services affected by COVID-19.

Street obstruction problems

22. In response to the Chairman's grave concern about the lack of coordination among the concerned Government departments for effective handling of street obstruction problems, as a result of which the city appearance seemed to have worsened, The Ombudsman said that the Office was also highly concerned about such problems as a considerable number of complaints about the issue had

been received, and it would study the follow-up action to be taken as appropriate.

III. Discussion items raised by Members

(LC Paper No. CRM 167/20-21(01))

(a) Issues relating to the clearance of slogans and posters posted on walls

23. Ms Elizabeth QUAT expressed concern that the graffiti painted on the so-called "Lennon Walls", the posters containing foul languages and doxxing information as well as political slogans posted on those walls not only adversely affected the city appearance but also brought about severe harmful effects to those being doxxed and to Hong Kong as a whole. Although it was understandable that clean-up operations could not be mounted at the time during the social unrest for various reasons such as staff safety and avoidance of possible confrontation at scene, FEHD was late and slow to take active action even when the social unrest began to die down at the end of 2019 and upon receipt of incessant complaints. As a result, many members of the public organized themselves to volunteer for the clean-up. In this respect, she noted that the Office had received more than 1 600 complaints about the "Lennon Walls". Regrettably, the Office did not conclude those complaints as substantiated, which failed to meet the expectation of most people.

24. The Ombudsman explained that the Office investigated those complaints from the angle of whether there was maladministration, and drew the conclusion on such basis upon examination of the information provided by the Administration, though the conclusion might not meet the public expectation.

25. Notwithstanding The Ombudsman's explanation, Ms Elizabeth QUAT still found the Office's conclusion unconvincing on the grounds that although FEHD, as at October 2019, had taken joint actions with other concerned Government departments against the

unauthorized display of bills at more than 120 spots, there were still a lot of bills remaining not yet cleaned up for over a year in spite of the numerous complaints lodged about the issue. She considered it a very serious problem reflecting maladministration on the part of FEHD.

26. Dr CHENG Chung-tai considered, however, that the Office's conclusion was fair because, as he recalled it, FEHD did attempt to, from the administrative point of view, initiate several large-scale late-night clean-up operations in 2019 with respect to the displays on the "Lennon Walls", though the success of the operations hinged upon various factors which might not be related to the administrative procedures. In this respect, he enquired whether the Office had, during the course of investigation, sought the following information from the Administration in order to ensure the transparency of the matter: (a) the number of clean-up operations in which police assistance was sought; and (b) the number of work injuries sustained by staff of FEHD during the clean-up operations. The Ombudsman replied that it had sought information from the Administration on, inter alia, the number of joint clean-up operations conducted by FEHD with other Government departments and the investigation report had been uploaded onto the Office's website for public reference.

27. In further response to Dr CHENG Chung-tai regarding the criteria for classifying complaints received by the Office for the reporting year of 2019-2020 in relation to the clean-up operations of the "Lennon Walls", The Ombudsman advised that for complaints related to the "Lennon Walls" lodged with the Office, they were received from different complainants with different contents about the "Lennon Walls" at different locations, and hence they were classified as different complaints, rather than form-letter complaints which had same contents but only with different signatures.

(b) Issues relating to the work efficiency and the work effectiveness of the Department of Justice

28. Ms Elizabeth QUAT expressed grave concern that numerous complaints had been received from members of the public with respect to the work efficiency and the work effectiveness of the Department of Justice ("DoJ"), vis-à-vis its delay in instituting prosecution concerning the "Occupy Movement" in 2014 and some other cases, rendering it more difficult to fight for justice. She cited another example for illustration that the name of and the charges brought against a defendant were mistyped. In this respect, she noted that The Ombudsman had remarked in her written reply prior to the meeting that the commencement or conduct of any proceedings, be it civil or criminal, were actions not subject to investigation by The Ombudsman. Since her concern focused rather on the overall work efficiency and the work effectiveness of DoJ but not legal proceedings nor court cases, she sought clarification from The Ombudsman as to whether the Office would launch direct investigation into the overall work efficiency and work effectiveness of a Government department including those of DoJ for necessary enhancement of the efficiency and the work quality.

29. The Ombudsman advised that in order to ascertain whether there was maladministration, the Office would conduct direct investigation into the efficiency and the effectiveness of a particular aspect of work, but not the overall efficiency and effectiveness, of a Government department so as to have more focused probe. Yet, as stipulated in the Ordinance, the commencement or conduct of any proceedings, whether civil or criminal, were actions not subject to investigation by The Ombudsman. Nevertheless, she supplemented that for complaints against DoJ which could be followed up by the Office, investigation would be conducted, and the Office had, in this respect, conducted investigation into 9 and 10 complaints against DoJ in the respective reporting years of 2018-2019 and 2019-2020. In further reply to Ms Elizabeth QUAT as to whether the Office had published the investigation results, she remarked that due to the secrecy provision of the Ordinance, the Office had

only advised the concerned complainants of the investigation results.

30. In response to Ms Elizabeth QUAT's enquiry as to whether the Office could investigate complaints against DoJ in relation to a particular aspect of its work, i.e. the delay in instituting prosecution, The Ombudsman advised that pursuant to the Ordinance, the Office could not conduct investigation into complaints about the commencement of proceedings, which included DoJ's decision to institute prosecution or otherwise. Notwithstanding that The Ombudsman was not empowered to conduct such investigation, the Chairman remarked that consideration should be given to reflecting to the concerned policy bureau DoJ's work efficiency and effectiveness which was the concern of many members of the public. The Ombudsman noted the Chairman's remark and affirmed that the Office would, in the course of following up on complaints, conveyed the views of the public as appropriate.

(c) Issues relating to hygiene blackspots and illegal dumping of waste

31. Mr CHAN Han-pan was concerned that although the problems of "illegal refuse deposit blackspots" and illegal dumping of waste had long been raised, there was not much concrete progress in resolving those problems. Even though Internet Protocol cameras and surveillance cameras were installed, the blackspots only shifted from one place to another. In the case of the handling of fly-tipping of construction waste, the progress was slow as FEHD had to seek assistance from another Government department. Moreover, given the increase in population in rural areas, the refuse collection arrangements in rural areas, ranging from the number of rubbish bins and refuse collection points to the size of rubbish bins, were far from adequate and appropriate. Since the aforesaid problems had been persisting for long without improvement, he called for The Ombudsman's follow-up.

32. Ms Elizabeth QUAT echoed that the handling of illegal dumping of waste was far from effective and

efficient due to the shift of responsibilities amongst Government departments, such as FEHD and the Environmental Protection Department ("EPD"). She quoted for illustration that Tai Shui Hang Refuse Collection Point had been a blackspot for illegal dumping of waste and fly-tipping of construction waste. In spite of repeated complaints for over 10 years and the undertaking for monitoring by FEHD and EPD, the problem still persisted. Since the above-mentioned refuse collection point was only one of the many long-existing blackspots for illegal dumping, she considered that The Ombudsman should investigate the matter with a view to putting forth recommendations to Government departments for achieving synergy effect in enhancing the effectiveness in resolving the problem.

33. The Ombudsman stressed that the problem of illegal dumping of waste was also an issue of concern of the Office as it not only undermined the city appearance but also gave rise to hygiene problems and health issues. While the Office had conducted direct investigations on related issues before, it would study the issues brought up by the Members and would announce its decision at an appropriate time.

34. Mr Wilson OR remarked that should a direct investigation be conducted, the Office should pay heed to the following two aspects: (a) the poor coordination amongst Government departments; and (b) the lack of effective monitoring by Government departments on their staff and contractors in observing the procedures for handling waste such that although there was still space in the refuse collection vehicle, the contractor only took away a few bulky waste items, leaving behind a lot of bulky waste in the refuse collection point. The Chairman opined, however, that although it might not constitute maladministration on the part of the concerned Government departments, there was, indeed, room for improvement in the coordination amongst Government departments for enhanced efficiency in waste handling such that all the rubbish, be they domestic waste or environmentally friendly rubbish, should be collected in

one go by the rubbish collection vehicles arriving on the spot.

35. In this connection, Ms Elizabeth QUAT said that the long-existing blackspots for illegal dumping of waste had become hygiene blackspots, which in turn gave rise to rodent problem. Although the concerned Government department spent two billion dollars a year on rodent control, it was far from effective. Since rodent problem would bring about hygiene problems and health issues, she hoped that The Ombudsman would also initiate direct investigation in this respect.

(d) Issues relating to the handling of complaints about non-compliant publicity materials

36. Referring to the Management Scheme for the Display of Roadside Non-commercial Publicity Materials ("the Management Scheme"), Mr Wilson OR expressed grave concern that due to ineffective monitoring, contractors outsourced by FEHD failed to follow the established procedures nor to take timely action for removing non-compliant publicity materials ("NCPMs") such as banners, the display of which had been confirmed by the Lands Department ("LandsD") to be unauthorized or not in compliance with the implementation guidelines. He was particularly aggrieved that while some NCPMs related to community affairs put up by LegCo Members and District Council members which aimed to disseminate information to the public were removed without the consent of the concerned LegCo Members and District Council members, some organizations such as Falun Gong could hang up NCPMs everywhere. Even though complaints were made against those NCPMs of Falun Gong, staff of FEHD advised that removal action could not be taken as due procedures had to be followed, etc. In view of FEHD's inconsistency in taking action against NCPMs and the fact that banners hung in a haphazard manner undermined the city appearance, he called on The Ombudsman to launch a direct investigation into the matter so as to fulfil her undertaking as set out in the Annual Report 2019-2020, i.e. positive complaint culture for better administration.

37. Echoing Mr Wilson OR's views, Ms Elizabeth QUAT remarked that banners hung up by LegCo Members under complaint were promptly removed. Yet, action was not taken with respect to complaints against NCPMs displayed by Falun Gong which contained biased and obscene contents or caused street obstruction. In view of the unfairness in the handling of complaints about NCPMs, she hoped that The Ombudsman would conduct a direct investigation into the matter.

38. By way of illustration, Mr Steven HO shared with the meeting that a banner expressing support for introduction of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region with his name printed thereon, though not belonging to him, was quickly removed. Yet, the Administration turned a blind eye to the many banners displayed by Falun Gong in districts like Wong Tai Sin, Mongkok and Causeway Bay. He sought The Ombudsman's views as to whether the differential enforcement actions taken against NCPMs constituted maladministration.

39. Ir Dr LO Wai-kwok also expressed concern over the inaction of the Administration against the unauthorized display of publicity materials and even the placing of simulated operating tables by Falun Gong in busy areas frequented by tourists. In this respect, Mr Holden CHOW remarked that in the case of complaints against NCPMs displayed by Falun Gong, the Administration should not use the legal proceedings as an excuse for its inaction. It should, instead, resort to the administrative powers vested upon it for taking necessary action, such as removal of those NCPMs. He hoped that The Ombudsman would also probe into the appropriateness of the Administration in the exercise of its administrative powers during the direct investigation.

40. Highlighting Members' grave concern over the unfairness in the implementation of the Management Scheme where banners with the names of LegCo Members were promptly removed while enforcement action was not taken against unauthorized display of commercial banners

nor those NCPMs of Falun Gong, the Chairman enquired as to whether The Ombudsman would consider initiating a direct investigation into the matter.

41. The Ombudsman took note of the Members' concerns, and welcomed Members to provide all relevant information so that the Office would study whether a direct investigation was warranted. Nevertheless, she added that the Office would take into account as to whether there were any legal proceedings before deciding whether it was an opportune time to conduct a direct investigation.

(e) Issues relating to the lease of ward offices

42. Mr Steven HO expressed grave concern that under the current allocation mechanism, LegCo Members returned from functional constituencies (including those returned from the District Council (second) functional constituency) were 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 and hence in the year of 2017, only 6 out of 35 LegCo Members returned from functional constituencies were able to lease ward offices in PRH estates. He considered that such an unfair mechanism not only lessened the chance of LegCo Members returned from functional constituencies for reaching out to members of the public but also dampened their interest in applying for lease of ward offices in PRH estates. Moreover, with respect to The Ombudsman's written reply prior to the meeting that the views collected by the Housing Department ("HD") from, inter alia, LegCo Members were unanimously against the proposal of giving higher priority to Councillors who had not been allocated any ward office, he remarked that HD had never sought his views nor the views of some other Members attending this meeting. He therefore considered that the Office should not only critically examine the accuracy of the information provided by HD before accepting it but also seriously consider reviewing the allocation mechanism in the light of its unfairness in treating applicants with a view to putting forth improvement proposals.

43. The Ombudsman responded that upon conducting a direct investigation into the allocation mechanism earlier, the Office had concluded, inter alia, that the allocation arrangements were, by and large, appropriate on the grounds that the overall successful allocation rate for LegCo Members returned from functional constituencies was as high as 90%. As such, the Office could hardly draw a conclusion that the allocation mechanism was grossly unfair. Nevertheless, the Office had suggested HD to increase the supply of ward offices so that more suitable premises would be made available for lease by LegCo Members for reaching out to members of the public. Moreover, in order to release more ward offices for application for lease by Members of different categories, the Office had recommended HD to cancel the arrangement for "inheritance of tenancy", which allowed the sitting tenant of a ward office to circumvent the allocation mechanism by adding another Member as a joint tenant before terminating the tenancy.

44. Mr Steven HO considered, however, that the cancellation of such an arrangement rendered LegCo Members returned from functional constituencies even more difficult to secure ward offices for serving the public as they could hardly lease ward offices by means of joint tenancies upon re-election. Moreover, with respect to the information provided to the Office by HD that the overall successful allocation rate for LegCo Members returned from functional constituencies was as high as 90%, he pointed out that the premises so offered by HD to those Members were those not welcomed by other Councillors and could only be used for storing furniture rather than as offices. As a point for further illustration on the unfairness of the allocation mechanism which affected adversely the services rendered to service targets, he remarked that albeit receiving the same amount of operating expenses reimbursement as LegCo Members returned by geographical constituencies through direct elections, LegCo Member returned from the functional constituency of Agriculture and Fisheries with service targets spreading all over different places such as Sam Shing Estate in Tuen Mun, Ap Lei Chau Estate in Aberdeen and Yue Wan Estate in Chai Wan could hardly

lease ward offices in PRH estates and could only pay, say, triple to rent other premises for use as ward offices. As such, he reiterated that the Office should not only study carefully the information furnished by HD but also examine critically the problems relating to the allocation mechanism.

45. The Chairman said that she was also highly disappointed with the Office's conclusion that the allocation arrangements were, by and large, appropriate because as a LegCo Member returned from the District Council (second) functional constituency which was a single constituency covering the whole territory and hence a vast number of service targets, she was classified as the last category for allocation of ward offices in PRH estates under the existing allocation mechanism. It was only with the support of her political party that she was able to set up ward offices in PRH estates.

46. The Ombudsman acknowledged that the insufficient provision of ward offices in PRH estates would hinder LegCo Members' reach out to members of the public. With respect to the Chairman's concern that LegCo Members returned from the District Council (second) functional constituency were classified as the last category in the order of priority for allocation of ward offices in PRH estates, she pointed out that since those Members were also District Council members, they de facto belonged to either the first or the second priority group for allocation of ward offices under the prevailing allocation mechanism. She explained further that although the Office had come up with the said conclusion on the basis of the overall use of resources, it was also of the view that the allocation mechanism had room for improvement.

47. The Chairman stressed that it was precisely due to the scarcity of resources that it was of paramount importance to ensure fairness in the allocation of resources. As such, she reiterated that she found it unacceptable for the Office to arrive at such a conclusion on the grounds that LegCo Members returned from functional constituencies were all classified as the last

category for allocation of ward offices under the prevailing allocation mechanism despite the fact that some of them had the need to set up ward offices in PRH estates for provision of services. She hoped that the Office would, in future, draw up conclusion not merely on the basis of the figures so provided to it. Mr Steven HO remarked that since the matter was also a policy issue, the LegCo Panel on Housing should consider following up on it.

48. Dr CHENG Chung-tai opined that since a comprehensive review on the electoral system would likely be conducted in the near future, the mechanism for allocating ward offices in PRH estates could be examined by then. In this connection, he expressed concern over the difficulties and the delay encountered by District Council members in relation to the reimbursement of operating expenses for their ward offices. He considered that the procedures for the said reimbursement should also be reviewed at that time.

IV. Any other business

Handling of abandoned vehicles and bicycles

49. Mr CHAN Han-pan shared with the meeting a picture showing several vehicles which had been abandoned in a rural area for twenty to thirty years but had not been cleared due to the lack of concerted effort of the concerned Government departments. This would give rise to not only a wrong perception to the public that they could abandon at will their vehicles at whatever locations but also the situation that the abandoned vehicles were used as transaction spots for illicit activities, bringing about negative impacts on the livelihood of the residents in rural areas. He urged The Ombudsman to follow up on the matter.

50. The Chairman echoed that the long-standing problem of abandoned vehicles persisted in not only the rural areas but also the urban districts. In spite of the complaints to the Administration, there were still a lot of abandoned vehicles left unattended on streets and in back

lanes. Mr Steven HO added that apart from abandoned vehicles, the problem of abandoned bicycles was also not addressed by the Administration such that there were a lot of rusty bicycles abandoned near railway stations or outside markets. He called on The Ombudsman to take up the matter of abandoned vehicles and bicycles with the Administration with particular respect to why the concerned Government departments, say LandsD, did not take enforcement action against vehicles which had been abandoned in public places for over 10 years, especially those still wearing licence plates with the licence numbers printed thereon and hence the ease for identifying the owners responsible for the abandonment.

Issues relating to natural rivers

51. Mr CHAN Han-pan expressed concern that natural rivers in rural areas constituted part of the stormwater drainage system. Whenever there was downpour of heavy rain, silt and stones would accumulate in the river beds, causing the water levels to rise. Yet, EPD prohibited the dredging of sediment by machines on the grounds of protecting the ecological environment of the habitats therein such as fishes, shrimps and crabs. It only allowed manual dredging which was not only time consuming but also ineffective. As a result, the high-water levels gave rise to flood hazards as well as water stagnation which was detrimental to the habitats. In view of the maladministration on the part of EPD for failing to protect the environment, he hoped that The Ombudsman would look into the matter.

Processing of applications for rebuilding small houses

52. Mr CHAN Han-pan expressed concern over the cumbersome procedures for applying to rebuild small houses in rural areas. By way of illustration, he said that it took LandsD four years to start vetting applications for rebuilding small houses and another four years to vet the supplementary information. Moreover, Certificates of Compliance would not be issued even in case of minor survey defects or minor deviation from the building plans. In view of the prevalence of the problems with LandsD's

processing of applications for rebuilding small houses, he hoped that The Ombudsman would investigate the matter, and he could provide further information to her if needed. While requesting The Ombudsman to take note of the Member's concerns, the Chairman suggested Mr CHAN furnish the Office with all relevant information after the meeting to facilitate its consideration of launching a direct investigation.

53. There being no other business, the meeting ended at 12:31 pm.

Complaints and Resources Management Division
Legislative Council Secretariat
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