

***The Channels for Redressing Grievances
in Hong Kong and in Overseas Countries***

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EXECUTIVE SUMMARY

1. The objective of the research is to find out how the main channels for redressing grievances in Hong Kong and some overseas countries operate and compare them to the Legislative Council Redress System.
2. Members of the public can complain to the Chief Executive, government departments and public organizations concerned if they feel aggrieved by decisions, actions or policies of the government or public bodies.
3. Certain statutory bodies such as the Equal Opportunities Commission and the Consumer Council are set up to promote fairness and equal opportunities and to protect certain basic rights of individuals. They also deal with complaints about such matters.
4. The Ombudsman is the main redressing channel for complaints of maladministration in Hong Kong. It is an independent body empowered to investigate any administrative action, with or without complaint being received.
5. Members of the two provisional municipal councils and provisional district boards have set up their respective centralized complaint handling systems. They are put on a duty roster to receive complaints or representations from members of the public. In addition, individual members of the two provisional municipal councils and provisional district boards also have their own ward offices to deal with complaints from the public.
6. Members of the public may appeal to various appeal boards and tribunals if they are not satisfied with certain government decisions or actions. Aggrieved parties can also apply to a court of law for adjudication on disputes or for judicial review.
7. The legislatures in four countries; namely, Australia, Japan, the UK and the US are selected for study in this research. The legislatures in Australia, the UK and the US do not have a redress system similar to the Legislative Council Redress System in Hong Kong in that they do not have a redress system operated by the entire legislature or by the entire house of the legislature. However, the House of Representatives of the Japanese Diet has a standing committee for handling complaints.
8. Legislators in Australia, the UK and the US have their own ward offices to receive and handle complaints from their constituents. The legislatures in Australia, Japan and the UK take petitions from members of the public as an alternative form of receiving complaints. The UK also has a Parliamentary Commissioner for Administration for handling serious complaints of maladministration.

THE CHANNELS FOR REDRESSING GRIEVANCES IN HONG KONG AND IN OVERSEAS COUNTRIES

PART 1 - INTRODUCTION

1. Background

1.1 The Subcommittee on Review of the Operation of the Legislative Council Redress System of the House Committee at its first meeting in July 1998 asked the Research and Library Services Division to conduct a research on the operation of grievance redress channels in Hong Kong and some overseas countries.

2. Objective and Scope

2.1 The objective of the research is to find out how the channels for redressing grievances in Hong Kong and some overseas countries operate and compare them to the Legislative Council Redress System.

2.2 The scope is as follows:

- describe the characteristics of the main channels for redress of grievances in Hong Kong
- describe the characteristics of the grievance redress systems of overseas legislatures; and
- compare and analyze such redress channels.

3. Methodology

3.1 This study involves a combination of information collection, literature review and analysis.

3.2 Letters were sent to various government departments and organizations in Hong Kong seeking information concerning their systems for handling complaints. Letters were also sent to the Australian Parliament, the Diet of Japan, the Parliament of the United Kingdom and the Congress of the United States. Most of the organizations have sent us a reply providing information on their respective systems. In addition, information was also collected through various reference books and the Internet.

PART 2 - AN OVERVIEW OF THE MAIN CHANNELS FOR REDRESSING GRIEVANCES IN HONG KONG

4. Main Channels for Redress of Grievances

4.1 In Hong Kong there are a number of channels through which people can seek redress for their grievances that may have arisen from decisions, actions or policies of the government and public bodies and in some cases from decisions or actions of private companies or other individuals. The main avenues for redress of grievances are described below.

Office of the Chief Executive

4.2 The Office of the Chief Executive receives many complaints from members of the public who are aggrieved by the decisions or actions of the government. It is stipulated in the Basic Law that one of the powers and functions of the Chief Executive is to handle petitions and complaints. Complaints received in the Chief Executive's Office are normally referred to the relevant policy bureau for processing.

Government Departments and Public Organizations

4.3 Another way for people to seek redress for their grievances is to approach the relevant departments or public organizations asking that the administrative decision or action be reconsidered. Most government departments and public bodies have established complaint handling systems within their own organizations. Complaints are usually referred to the relevant divisions of the departments or organizations for investigation. Substantiated complaints usually serve as feedback for improving the efficiency and effectiveness of the departments or organizations concerned.

4.4 Depending on the nature, the outcome of the investigation into a complaint is reviewed by senior officers up to directorate level. Some organizations have an internal appeal channel for complainants who are not satisfied with the response to their complaints. The appeal channel is usually formed by staff members at a level senior to the one that makes the decision on the initial complaint. However, in some statutory bodies, like the Housing Authority and the Hospital Authority, appeals are heard by members of the two authorities.

Statutory Bodies

4.5 A number of statutory bodies have been set up to promote fairness and equal opportunities for people in various sectors of the community and to protect certain basic rights of individuals. These organizations also deal with complaints about such matters.

4.6 In dealing with complaints, such statutory bodies serve as an intermediary between the complainant and the party being complained of. They would mediate and help the parties concerned to negotiate for settlement if possible.

The Ombudsman

4.7 The Ombudsman is an independent authority which has the power of investigating complaints about administrative actions. The Ombudsman is also empowered to initiate direct investigations into any administrative action, without any complaint being received.

4.8 The public has the right to take their complaints direct to the Ombudsman. Before 1994, the Ombudsman might only investigate complaints referred to him for investigation by members of the Legislative Council.

Provisional Municipal Councils and Provisional District Boards

4.9 The two provisional municipal councils and the provisional district boards have established their respective systems for the public to express their grievances to members in person.

4.10 The centralized complaint handling system operated under the Provisional Urban Council is called the “Member Duty Roster System” and that under the Provisional Regional Council and is called the “Meet the Public Scheme”. Individual provisional district boards also operate their respective “Meet the Public Schemes”. Under such schemes, members of the public can put forward their complaints, grievances or suggestions to members of these councils or boards, who are placed on a duty roster to meet the public, by appointment, once or twice a week.

4.11 In addition to the “Members Duty Roster System” or “Meet the Public Scheme”, individual provisional municipal council members and provisional district board members also operate their ward offices where members meet the public on a wide variety of matters.

4.12 After members of the two provisional municipal councils meet the complainants, they would direct the executive arm of the councils, the Regional Services Department and the Urban Services Department, to take actions on the complaints. Most of the complaints to the provisional district boards are referred to the relevant departments or organizations for actions.

4.13 Members of the public may also send petition letters to the provisional municipal councils to express their grievances. The secretariat of the councils would decide if the letters should be read by the chairman before passing them on to the executive arm of the councils for action.

Appeal Boards

4.14 Members of the public may appeal to appeal boards and tribunals set up under various ordinances or administrative directives if they are not satisfied with decisions of the government or if they are not able to have their complaints satisfactorily resolved by the relevant government departments or public organizations.

4.15 Applications for appeal usually have to be in writing and some need to be made within prescribed time limits. Applicants normally need to attend hearings to present their cases. The hearings of some appeal boards such as those of the Administrative Appeals Board are very formal and are held in public where legal representatives are allowed. Other appeal boards such as the Social Security Appeal Board have less formal procedure; their hearings are held in camera and no person other than the applicants would be allowed to attend.

Judicial Channels

4.16 Aggrieved parties can apply to a court of law for adjudication on disputes or for judicial review of an administrative decision. However, resorting to judicial proceeding is likely to be long, complicated and expensive.

4.17 Judicial review is different from an ordinary appeal in that it is concerned not with the merits of an administrative decision but the decision-making process itself. The purpose of judicial review is to ensure that the individual is given fair treatment by the authority to which he has been subjected. The concern of the court in judicial reviews is whether a decision-making authority has exceeded its powers, committed an error of law, committed a breach of the rules of natural justice, reached a decision which no reasonable tribunal could have reached or abused its powers. The courts in their discretion will not normally make the remedy of judicial review available where there is an alternative remedy by way of appeal.

**PART 3 - COMPARISON OF THE CHANNELS FOR REDRESSING
GRIEVANCES IN HONG KONG**
5. Comparison of the Channels for Redress of Grievances in Hong Kong

5.1 Examples of the major channels for redressing grievances are chosen for comparison. The following tables summarize the main characteristics of the respective channels. Detailed information on these channels for redressing grievances is kept in the Legislative Council Library for reference by members.

Table 1 - Comparison of Channels for Redressing Grievances

	Nature of complaints	Source of powers	Immunities, privileges or protection	Source of immunities, privileges or protection
Chief Executive's Office	Not defined	Article 48 of the Basic Law	Not applicable	Not applicable
Hospital Authority	Complaints concerning hospital services	Section 5(m), Hospital Authority Ordinance	Any member of the Authority, acting in good faith, shall not be personally liable for any act done on behalf of the Authority in the performance of the functions or the exercise of the powers of the Authority	Section 23, Hospital Authority Ordinance
Housing Authority and Housing Department	Complaints concerning housing matters	Administrative decision	No	Not applicable
Transport Complaints Unit	Complaints on transport and traffic matters	Administrative decision	No	Not applicable

Table 1 (Continued) - Comparison of Channels for Redressing Grievances

	Nature of complaints	Source of powers	Immunities, privileges or protection	Source of immunities, privileges or protection
Water Supplies Department	Complaints on billing and matters relating to the provision of water supply	Administrative decision	No	Not applicable
Consumer Council	Complaints by consumers of goods and services and purchasers, mortgagors and lessees of immovable property	Consumer Council Ordinance	No member or employee of the Council shall be personally liable for any act done or default made by the Council, acting in good faith in the course of the operations of the Council	Section 19(1), Consumer Council Ordinance
Equal Opportunities Commission	Complaints concerning discrimination on the grounds of sex, marital status, pregnancy, disability and family status	Sex Discrimination Ordinance, Disability Discrimination Ordinance and Family Status Discrimination Ordinance	No member, employee or conciliator of the Commission acting in good faith, shall be personally liable in damages for any act done or default made in the performance of function or the exercise of power of the Commission	Section 68, Sex Discrimination Ordinance
Ombudsman	Complaints against maladministration	Ombudsman Ordinance	For the purposes of the law of defamation, absolute privilege shall be attached to the publication of any matter by the Ombudsman or his staff to any person for the purpose of an investigation	Section 18, Ombudsman Ordinance

Table 1 (Continued) - Comparison of Channels for Redressing Grievances

	Nature of complaints	Source of powers	Immunities, privileges or protection	Source of immunities, privileges or protection
Provisional Regional Council (Meet the Public Scheme)	Complaints about municipal matters as defined under Section 25 of the Provisional Regional Council Ordinance	Decision of the Provisional Regional Council	No matter or thing done, by any member of the Council, bona fide for the purpose of exercising powers of the council, shall subject such member personally to any action, liability, claim or demand	Section 56, Provisional Regional Council
Provisional Urban Council (Member Duty Roster System)	Complaints about municipal matters as defined under Section 24 of the Provisional Urban Council Ordinance	Decision of the Provisional Urban Council	No matter or thing done, by any member of the Council, bona fide for the purpose of exercising powers of the Council, shall subject such member personally to any action, liability, claim or demand	Section 51, Provisional Urban Council Ordinance
Provisional District Boards (Meet the Public Scheme)	Not defined	Decisions of the Provisional District Board	No matter or thing done, by any member of a Board, bona fide for the purpose of carrying out functions of a Board, shall subject such member personally to any action, liability, claim or demand	Section 25, Provisional District Boards Ordinance

Sources : Chief Executive's Office, Consumer Council, Equal Opportunities Commission, Home Affairs Department, Hospital Authority, Housing Department, Office of the Ombudsman, Provisional Regional Council Secretariat, Provisional Urban Council Secretariat, Transport Department, Transport Complaints Unit, and Water Supplies Department

Table 2 - Appeal Boards as a Channel for Redressing Grievances

	Nature of appeals	Source of powers	Immunities, privileges or protection	Source of immunities, privileges or protection
Administrative Appeals Board	Statutory appeals against certain administrative decisions made under 46 ordinances	Administrative Appeals Board Ordinance	Members of the Board have, in the performance of their duties, the same privileges and immunities as a judge of the High Court in civil proceedings in that court	Section 26, the Administrative Appeals Board Ordinance
Board of Review (Inland Revenue)	Tax appeals	Section 65, Inland Revenue Ordinance	No	Not applicable
Immigration Tribunal	Removal orders	Section 53, Immigration Ordinance	No	Not applicable
Social Security Appeal Board	Eligibility and payment of social security benefits	Administrative decision	No	Not applicable

Sources : Administrative Appeals Board, Board of Review (Inland Revenue), Immigration Tribunal, Social Security Appeal Board

Table 3 - Judicial Channels for Redressing Grievances

	Nature of cases	Source of powers	Immunities, privileges or protection	Source of immunities, privileges or protection
Labour Tribunal	Monetary disputes between employees and employers	Labour Tribunal Ordinance	Members of the judiciary shall be immune from legal action in the performance of their judicial functions	Article 85 of the Basic Law
Judicial Review	Administrative decisions	High Court Ordinance	Members of the judiciary shall be immune from legal action in the performance of their judicial functions	Article 85 of the Basic Law

Sources : Labour Tribunal and the Judiciary Administrator's Office

Number of Cases Received by Various Channels for Redressing Grievances

5.2 Complaint figures of the various organizations shown in Table 4 are for reference only since complaints handled are very different in terms of nature and complexity and a meaningful comparison cannot be made.

Table 4 - Number of Complaints Received by Various Organizations in the Past Five Years

	1993/94	1994/95	1995/96	1996/97	1997/98
Petition to the Chief Executive	not applicable	not applicable	not applicable	not applicable	20 000*
Hospital Authority #	1 762	1 911	1 847	1 735	1 638
Housing Authority and Housing Department #	18 674	29 802	24 471	14 383	8 031
Transport Complaints Unit	13 498	14 299	14 183	13 066	n.a.
Water Supplies Department	49 548	46 480	47 553	45 062	34 244
Consumer Council #	9 509	10 045	8 768	8 805	11 535
Equal Opportunities Commission	not applicable	not applicable	6	495	306
Ombudsman	173	1 211	2 784	2 844	3 073
Provisional district boards	264	188	116	123	98
Provisional Regional Council	not applicable	not applicable	not applicable	not applicable	five since scheme launched in June 1998
Provisional Urban Council #	22	32	20	9	23

Remarks : * The figure includes petitions, complaints, requests for assistance, general enquiries and expression of views made to the Chief Executive since July 1997.

Figures for these organizations are kept in calendar years.

n.a. means not available

Sources : Chief Executive's Office, Consumer Council, Equal Opportunities Commission, Home Affairs Department, Hospital Authority, Housing Department, Office of the Ombudsman, Provisional Regional Council Secretariat, Provisional Urban Council Secretariat, Transport Department, Transport Complaints Unit and Water Supplies Department

Table 5 - Number of Appeals Received in the Past Five Years

	1993/94	1994/95	1995/96	1996/97	1997/98
Administrative Appeals Board#	not applicable	5	22	57	25
Board of Review (Inland Revenue)	127	185	190	208	255
Immigration Tribunal#	252	144	50	143	2 800
Social Security Appeal Board	216	248	275	224	189

Remark : # Figures for these organizations are kept in calendar years.

Sources : Administrative Appeals Board, Board of Review (Inland Revenue), Immigration Tribunal, Social Security Appeal Board.

Table 6 - Number of Cases Received by the Labour Tribunal and Number of Applications for Judicial Review in the Past Five Years

	1993/94	1994/95	1995/96	1996/97	1997/98
Labour Tribunal	5 194	5 976	7 645	7 862	6 319
Judicial Review	n.a.	n.a.	n.a.	n.a.	180* (from February 1997 to August 1998)

Remarks : * Figures on judicial review were only available since February 1997 when the Administrative Law List was created to deal with judicial review.
n.a. means not available

Sources : Labour Tribunal and the Judiciary Administrator's Office.

PART 4 - REDRESS SYSTEMS OF OVERSEAS LEGISLATURES

6. Redress Systems of Overseas Legislatures

Channels for Redressing Grievances in Overseas Legislatures

6.1 Four countries, Australia, Japan, the UK and the US, are selected for study in this paper. The ways in which these four legislatures or their members handle grievances are summarized in the following table.

Table 7 - Channels for Redressing Grievances in Overseas Legislatures

	Petition	Parliamentary redress system	Constituency work
Australia	✓	X	✓
Japan	✓	✓	n.a.
UK	✓	X	✓
US	X	X	✓

Remark : n.a. means not available

Sources : Australian Parliament, Japanese House of Representatives, UK House of Commons, US House of Representatives.

6.2 The legislatures in Australia, the UK and the US do not have a redress system similar to the Legislative Council Redress System in Hong Kong in that they do not have a redress system operated by the entire legislature or by the entire house of the legislature. However, the House of Representatives of the Japanese Diet has a standing committee for handling complaints.

6.3 Legislators in Australia, the UK and the US have their own ward offices to receive and handle complaints from their constituents. Information on constituency work by members of the Japanese Diet is not available.

6.4 The legislatures in Australia, Japan and the UK accept petitions from members of the public as an alternative form of receiving complaints. The US Congress does not have a system for receiving petitions from the public.

Petitions to Parliaments

6.5 In Australia and the UK, the right to petition Parliament is the only means by which the individual can directly place grievances before the Parliament. Some petitions are about individual grievances, but most are from groups.

6.6 In both Parliaments, a petition can only be presented to the House by a Member of the House. The presentation of a petition to the House is protected by absolute privilege. After a petition has been announced in the House, it is printed in the Votes and Proceedings of the House, but there is no requirement for any action to be taken on it.

6.7 Petitioning either House of Parliament in the UK has been mainly used for publicity purpose, either national or local. In Australia, there are an average of 750 petitions presented to the House annually in recent years.

6.8 In Japan, members of the public may petition the Diet for removal of public officials, the enactment, repeal or amendment of laws, ordinances or regulations and for other matters. The two Houses of the Japanese Diet receive and handle petitions separately. A petition has to be presented by a Member of the House. Petitions which have been adopted by a House and are considered appropriate for Cabinet action are referred to the Cabinet. The Cabinet has to report annually to the House on the actions taken on the petitions thus referred.

Parliamentary Redress System

6.9 The House of Representatives of the Japanese Diet has established a new committee, the Standing Committee on Audit and Oversight of Administration, to bolster the parliamentary functions on oversight of the administration since January 1998. The main functions of the committee are to deal with public complaints about government policies and actions, to monitor government activities and to make recommendations upon its oversight activities.

6.10 Members of the public should make their complaints in writing. They may address their letters to either the committee or its chairman. Members of the public may complain about administrative actions and policies of the government.

6.11 The committee investigates the complaints by obtaining information from the government. If a complaint is found to be justified, the committee makes recommendation to the relevant government offices. The committee has received 1 668 complaints since it started receiving complaints in February 1998.

Constituency Work by Members of Overseas Legislatures

6.12 A large part of the work of legislators in Australia, the UK and the US is to deal with complaints and grievances of their constituents arising from actions, decisions and policies of the government.

6.13 There is no prescribed way in which legislators in the three countries should handle complaints. They invariably maintain offices in their respective electoral areas where they can be contacted by their constituents. They deal with complaints in various ways. They may contact the department or authority concerned, contact the Minister concerned, bring the matter before Parliament by addressing a question to the responsible Minister or by raising it in debate. In the UK, a serious complaint of maladministration would be referred to the Parliamentary Commissioner for Administration.

The UK Parliamentary Commissioner for Administration

6.14 The Parliamentary Commissioner Act 1967 established the first British Parliamentary Commissioner for Administration which is now commonly known as the Parliamentary Ombudsman. The public cannot complain directly to the Parliamentary Ombudsman; a case must be referred by a Member of Parliament acting on behalf of a constituent. One of the reasons for keeping the “MP filter” as it is often called, is that it enables MPs to keep in touch with the day-to-day problems and concerns of their constituents.

6.15 The Parliamentary Ombudsman is an officer of the House of Commons, and submits an annual report on his work to the House. In addition, the Parliamentary Ombudsman’s work is reviewed and supported by the Select Committee on the Parliamentary Commissioner for Administration which is an all-party group of MPs.

6.16 The Parliamentary Ombudsman has the power to investigate the work of government departments, executive agencies, and a large number of other public-sector bodies. The Ombudsman has extensive powers to send for persons and papers. The Ombudsman can demand to see all the relevant files and can interview any officials involved in an attempt to uncover the truth of what has happened.

6.17 The concern of the Ombudsman is the way in which a particular administrative decision was taken, and whether the individual concerned was treated unjustly as a result. If the Ombudsman decides that injustice did occur, he recommends ways of putting matters right.

PART 5 - ANALYSIS

7. Comparison of the Legislative Council Redress System and the Main Channels for Redressing Grievances in Hong Kong

Jurisdiction

7.1 The jurisdiction of most of the redress channels being studied is well defined. By comparison, members of Legislative Council have more flexibility in dealing with public concerns and complaints against government decisions, actions and policies. Please refer to Appendix 1 for details of the Legislative Council Redress System.

Powers and Source of Powers

7.2 Among the complaint redress channels being studied, the powers of some channels are prescribed by law and some by administrative directives. Only the powers and functions of the Chief Executive and the Legislative Council in handling complaints are stipulated in the Basic Law.

7.3 Among the various channels for redressing grievances being studied, only the Ombudsman and the Equal Opportunities Commission are given statutory power to conduct investigation into complaints. The Ombudsman can also initiate investigation into administrative actions in the absence of complaints. The judicial and quasi-judicial avenues for redress have the power to require any persons to attend hearings, give evidence and produce documents.

7.4 Other channels for redressing grievances being studied do not have statutory investigation power or statutory power to obtain information and document. Most of the organizations depend very much on the goodwill and co-operation of the parties concerned in dealing with complaints. The Legislative Council Redress System has access to government files, information and officials under an administrative arrangement with the government. Statutory investigation powers may not be necessary for handling complaint as long as the parties concerned are willing to co-operate.

Immunities, Privileges and Protection

7.5 A similar clause is found in the ordinances governing the operation of the Consumer Council, Equal Opportunities Commission, Hospital Authority, Provisional Regional Council, Provisional Urban Council and provisional district boards to provide protection to members and/or staff acting in good faith on behalf of the organizations.

7.6 At the moment, meetings held between Legislative Council members and the public and meetings between Legislative Council members and the Administration under the Legislative Council Redress System are not protected by any privilege.

7.7 The Ombudsman and his staff are given absolute privilege in terms of defamation. Members of the Administrative Appeals Board are given protection similar to that given to members of the Judiciary. Members of the Judiciary are given protection under the Basic Law and they are immune from legal action in the performance of their judicial functions.

8. Comparison of the Legislative Council Redress System and the Redress Systems of Overseas Legislatures

8.1 Both the House of Representatives of the Japanese Diet and the Legislative Council in Hong Kong have the corporate power and responsibility for receiving and handling complaints. The other three overseas legislatures do not have a centralized complaint handling system.

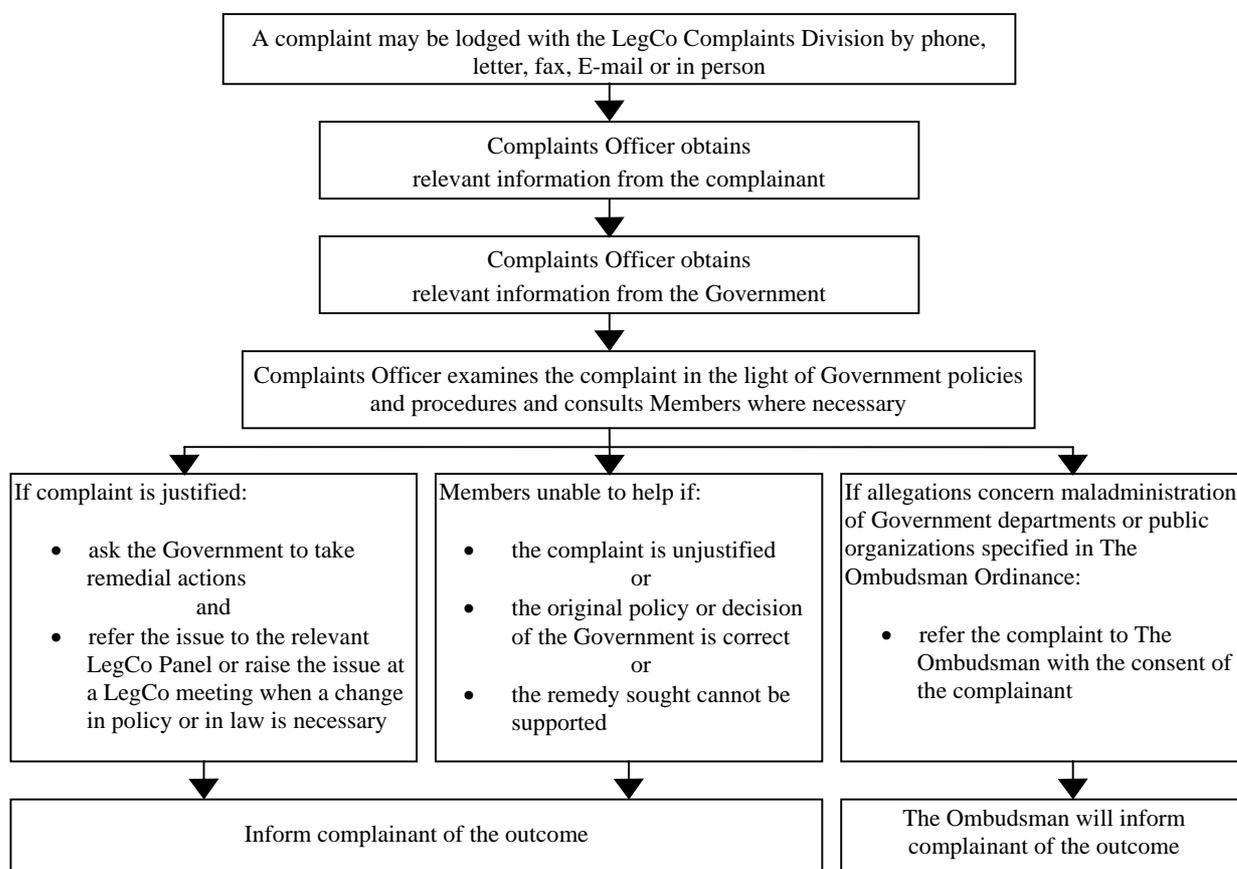
8.2 The UK has a Parliamentary Commissioner for Administration for investigating maladministration but its operation is different from that of the Ombudsman in Hong Kong. The UK Parliamentary Ombudsman can only investigate cases that are referred by a Member of Parliament acting on behalf of a constituent. In Hong Kong, members of the public can approach the Ombudsman directly. The UK Parliamentary Ombudsman reports to the Parliament while the Ombudsman in Hong Kong is independent of the legislature.

Appendix I
Legislative Council Redress System
What is the Legislative Council Redress System?

It is a system operated by the Legislative Council (LegCo) to receive and handle complaints from members of the public who are aggrieved by Government actions or policies. It also deals with public representations on Government policies and legislation as well as other matters of public concern.

How does the Redress System operate?

In groups of six, Members take turns to be on duty each week to oversee the system and to receive petitions as well as representations made by deputations. In addition, they take turns to be on "ward duty" during their duty week to meet individual complainants who wish to discuss their complaints with Member(s) in person, and to give guidance to staff of the LegCo Secretariat Complaints Division in processing cases.

How is a complaint handled?


Appendix I (Continued)

Are there matters which Members do not handle under the Redress System?

The Redress System does not provide legal advice or legal services to complainants. Members will not handle complaints against individual members of the three-tier system of representative government (i.e. Legislative Council, Municipal Councils, District Boards), or other Government boards and committees. Members will also not handle private disputes; matters which are sub-judice or could involve criminal charges; matters relating to judicial or quasi-judicial proceedings; complaints against Police or ICAC officers; matters relating to the administration of a non-government body; and matters outside the jurisdiction of the Hong Kong Special Administrative Region.

References

1. Alex Carroll, *Constitutional and Administrative Law*, Financial Times Pitman Publishing, 1998.
2. Commissioner for Administrative Complaints, *Annual Report of the Commissioner for Administrative Complaints Hong Kong*, 8th June 1996.
3. The Ombudsmen, *Annual Report of the Ombudsman of Hong Kong*, June 1997.
4. Consumer Council, *Annual Report 1996-1997*.
5. David Pollard and David Hughes, *Constitutional and Administrative Law Text & Materials*, Butterworths, 1990.
6. UK Foreign & Commonwealth Office, *Ombudsmen in Britain*, June 1994.
7. Leon Hurwitz, *The State as Defendant Governmental Accountability and the Redress of Individual Grievances*, *Studies in Human Rights*, No. 2, Aldwych press London, 1981.
8. Office of The Ombudsman Hong Kong, China, *Effective Complaint Handling: A Tool for Better Serving the Community*, 1998.
9. Sir Charles Gordon, *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, London Butterworths, 1983.
10. Social Security Appeal Board, *Sixteenth Annual Report 1993/94*.
11. Social Security Appeal Board, *Seventeenth Annual Report 1994/95*.
12. Social Security Appeal Board, *Eighteenth Annual Report 1995/96*.
13. Social Security Appeal Board, *Nineteenth Annual Report 1996/97*.
14. Social Security Appeal Board, *Twentieth Annual Report 1997/98*.
15. Legislative Council Secretariat, *The Legislative Council Redress System: Request for Interview with Legislative Council Members*, July 1998.
16. UK House of Commons, *The Parliamentary Ombudsman: Parliamentary Commissioner for Administration, Annual Report 1997-98*.
17. Transport Advisory Committee, *Transport Complaints Unit 1994-1995 Annual Report*.

18. Transport Advisory Committee, *Transport Complaints Unit 1995-1996 Annual Report*.
19. Transport Advisory Committee, *Transport Complaints Unit 1996-1997 Annual Report*.
20. 中國香港申訴專員，*中國香港申訴專員年報*，10期，1998年6月。