Bills Committee on
The Ombudsman (Amendment) Bill 2001

Concerns raised by members requiring the Administration's response

Concerns raised by members	Date of meeting	Administration's response
Appointment and tenure of office *Clause 3*		
1. The Administration to explain the rationale for appointing 'a person', instead of the office holder, as 'a corporation sole with perpetual succession'.	28.6.2001	LC Paper No. CB(2) 2095/00-01(04)
2. The Administration to advise whether the present drafting of the new section 3(2) and (3) could achieve the intended legal effect that the office holder, i.e. The Ombudsman, would be appointed as a corporation sole.	28.6.2001	The Administration has re-drafted section 3 [LC Paper No. CB(2) 2236/00-01(03)].
3. The Administration to consider whether the Ombudsman should be re-appointed for not more than 1 further period of 5 years.	28.6.2001	LC Paper No. CB(2) 2095/00-01(04)
4. The Administration to re-consider whether the Ombudsman should not be re-appointed beyond a specified period.	16.7.2001	LC Paper No. CB(2) 2236/00-01(02)
5. The Administration to re-consider whether the Ombudsman should be re-appointed for not more than 1 further period of 5 years.	7.9.2001	LC Paper No. CB(2) 2332/00-01(02)

Advisers *Clause 6* 6. The functions of 'Advisers' were too wide, which gave the impression that the Ombudsman might also appoint advisers to assist/participate in investigation.	28.6.2001	The Administration has introduced CSA [LC Paper No. CB(2) 2236/00-01(03)].
Powers of Ombudsman *Clause 8* 7. The Administration to explain the scope and restraints of the Ombudsman's powers, and the legal effect to be achieved by the new section 7A.	16.7.2001	LC Paper No. CB(2) 2236/00-01(02)
Fees *Clause 9* 8. The Administration to provide a paper on the fees to be charged by the Ombudsman.	16.7.2001	LC Paper No. CB(2) 2236/00-01(02)
Dealing with complaints by mediation *Clause 10* 9. The Law Society had expressed concern that there would be a potential conflict if the Ombudsman also conducted mediation and suggested deletion of the new section 11B(2)(a). The Bills Committee suggested that there should be express provisions in the Bill to prevent conflict of interest and to clearly reflect the segregation of the mediation and investigation functions.	28.6.2001	The Administration has deleted the proposed section 11B(2)(a) [LC Paper No. CB(2) 2236/00-01(03)].

10.	Complaints on the outcome of mediation/investigation should be reviewed by an Assistant Ombudsman who was not involved previously in the deliberation and decision of the case.	16.7.2001	LC Paper No. CB(2) 2236/00-01(02)
11.	The Administration to consider whether the criteria for determining which complaint could be dealt with by mediation could be specified in the Bill.	28.6.2001	LC Paper No. CB(2) 2095/00-01(04)
12.	The Administration to consider specifying in the new section 11B - (a) mediation is incidental or ancillary to the investigation function of the Ombudsman; and (b) the underlying principle for determining which complaint could be dealt with by mediation.	7.9.2001	LC Paper No. CB(2) 2332/00-01(02)
13.	The Administration to provide a paper on the criteria/considerations/circumstances for determining which complaint could be dealt with by mediation, the number and nature of cases (with examples) which were recommended for mediation in the past 4 years, and the time taken to settle a case.	16.7.2001	LC Paper No. CB(2) 2236/00-01(02)
14.	The Administration to consider whether the qualifications of mediators should be specified in the Bill.	28.6.2001	LC Paper No. CB(2) 2095/00-01(04)
15.	The Ombudsman to include in its annual report the qualifications of, and training received by its mediators.	16.7.2001	LC Paper No. CB(2) 2236/00-01(02)
16.	The Administration to provide information on the current mechanism (together with past years' statistics) in dealing with appeals and complaints on the outcome of mediation/investigation conducted by staff of the Ombudsman.	28.6.2001	LC Paper No. CB(2) 2095/00-01(04)
17.	The Administration to provide more detailed information on the questionnaire survey to collect complainants' feedback on the outcome of mediation.	16.7.2001	LC Paper No. CB(2) 2236/00-01(02)

18. The Administration/Ombudsman to provide a flowchart and explain the procedures for reviewing an investigation.	16.7.2001	LC Paper No. CB(2) 2236/00-01(02)
19. The Administration to provide more detailed information on the criteria for classifying complaints as revived cases and the nature of the nine complaints against the staff of The Ombudsman received in 2000.	7.9.2001	LC Paper No. CB(2) 2332/00-01(02)
20. The Ombudsman to consider deploying designated staff to handle complaints against the result of investigation or staff of the Office.	7.9.2001	LC Paper No. CB(2) 2332/00-01(02)
Pay and conditions of service *Section 6 of The Ombudsman Ordinance* 21. The Administration to consider whether the emoluments and terms of employment of the Ombudsman and his/her staff should be determined by a management committee instead of the Chief Executive. The broad principles of administrative arrangements, e.g. the remuneration of its employees should not be better than that of comparable ranks in the civil service, should be specified in the Bill.	28.6.2001	LC Paper No. CB(2) 2095/00-01(04) LC Paper No. CB(2) 2236/00-01(02)
Monitoring of the operation and performance of the Ombudsman 22. Members considered it necessary to provide checks and balances while maintaining the independence of the Ombudsman. The Administration was requested to provide information on the monitoring/advisory mechanisms to oversee the work/management of Ombudsman's Offices in overseas countries.	16.7.2001	LC Paper No. CB(2) 2236/00-01(02)

Annual report 23. The annual report of the Ombudsman should include the number and nature of complaints received and the outcome of such complaints.	16.7.2001	LC Paper No. CB(2) 2236/00-01(02)
Publication of reports *Clause 13 and section 16 of The Ombudsman Ordinance* 24. The Administration to provide a paper on the criteria/considerations/circumstances for determining which investigation report should be published or should be submitted to the Chief Executive.	7.9.2001	LC Paper No. CB(2) 2332/00-01(02)