

**Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2013-14**

**Controlling Officer : The Ombudsman  
Session No. : 5**

<b>Reply Serial No.</b>	<b>Question Serial No.</b>	<b>Name of Member</b>	<b>Head</b>	<b>Programme</b>
<a href="#">OMB001</a>	0045	CHAN Ka-lok, Kenneth	114	(1) Complaints Administration
<a href="#">OMB002</a>	3346	CHAN Ka-lok, Kenneth	114	(1) Complaints Administration
<a href="#">OMB003</a>	4871	CHAN Ka-lok, Kenneth	114	(1) Complaints Administration
<a href="#">OMB004</a>	4872	CHAN Ka-lok, Kenneth	114	(1) Complaints Administration
<a href="#">OMB005</a>	3658	HO Sau-lan, Cyd	114	(1) Complaints Administration
<a href="#">OMB006</a>	3079	KWOK, Dennis	114	(1) Complaints Administration
<a href="#">OMB007</a>	3080	KWOK, Dennis	114	(1) Complaints Administration
<a href="#">OMB008</a>	2274	LIAO Cheung-kong, Martin	114	(1) Complaints Administration
<a href="#">OMB009</a>	1762	MO, Claudia	114	(1) Complaints Administration
<a href="#">OMB010</a>	3003	WONG Ting-kwong	114	(1) Complaints Administration

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

OMB001

Question Serial No.

0045

Head: (114) Office of The Ombudsman      Subhead: (000) Operating Expenses

Programme: (1) Complaints Administration

Controlling Officer: The Ombudsman

Director of Bureau: --

Question:

How many complaints relating to the Code on Access to Information had the Office of The Ombudsman received in the past three years (i.e. 2010-11, 2011-12 and 2012-13)? How many of these complaints were found substantiated and what were the follow-up actions taken?

Asked by: Hon. CHAN Ka-lok, Kenneth

Reply:

On receipt of any complaint relating to the Code on Access to Information, we will first examine whether they come within the statutory purview of The Ombudsman and whether there is *prima facie* evidence to warrant investigation. Complaints screened in are usually handled by way of inquiry which is a procedure to resolve more speedily complaint cases of a general nature. For complex cases or those cases that appear to involve issues of principle, our Office will conduct a full investigation.

The number of complaints relating to the Code on Access to Information that we had received in the past three years and the results of our investigation are given below:

		Reporting Year <sup>1</sup>		
		2010-11	2011-12	2012-13 (first 11 months)
<b>(a) Complaints for processing</b>	- Received	<b>60</b>	<b>48</b>	<b>57</b>
	- Brought forward	42	38	51
		18	10	6
<b>(b) Complaints processed</b>	- Non-pursuable <sup>2</sup>	<b>50</b>	<b>42</b>	<b>45</b>
	- Pursued and concluded	8	7	13
	(1) By inquiry	42	35	32
	(deficiencies or inadequacies found)	(16)	(20)	(10)
	(2) By full investigation	-	-	8
(complaint substantiated or partially substantiated)	-	-	(8)	
<b>(c) Carried forward/In progress</b>	10	6	12	

Note 1: From 1 April to 31 March of the next year.

Note 2: Outside our jurisdiction or restricted by The Ombudsman Ordinance, withdrawn by complainant, or discontinued or not undertaken by this Office, e.g. *subjudice* or lack of *prima facie* evidence.

For inquiry cases, regardless of whether or not deficiencies or inadequacies are found, we will make suggestions for improvements to the departments and organisations concerned where appropriate.

The eight cases concluded by full investigation in 2012-13 were found either substantiated or partially substantiated. We made a total of ten recommendations and are monitoring their implementation by the departments and organisations concerned. Six of these recommendations have been accepted and implemented by the departments or organisations concerned.

Name in block letters: Alan N LAI

Post Title: The Ombudsman

Date: 3.4.2013

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

OMB002

Question Serial No.

3346

Head: (114) Office of The Ombudsman

Subhead: (000) Operating Expenses

Programme: (1) Complaints Administration

Controlling Officer: The Ombudsman

Director of Bureau: --

Question:

Will the Office of The Ombudsman allocate more resources to conduct more direct investigations into issues relating to different Government departments and public organisations in 2013-14? If yes, what are the details? If no, why not?

Asked by: Hon. CHAN Ka-lok, Kenneth

Reply:

The Ombudsman is empowered to conduct direct investigations ("DIs") in the absence of complaints. This power enables him to look at issues at a more macro level. Before deciding whether to launch a DI against an organisation or into an issue, we may conduct an initial assessment (called "DI assessment").

The number of DIs and DI assessments completed in the years 2009-10 to 2011-12 are given below:

	Reporting Year*		
	2009-10	2010-11	2011-12
Number of DIs completed	7	6	5
Number of DI assessments completed	8	10	23

\* From 1 April to 31 March of the next year.

We expect to complete six DIs and 36 DI assessments in 2012-13, an increase over the past three years.

It has always been our policy to deploy resources as actual circumstances may require to handle complaint cases and to launch DIs into issues of wide community concern. In 2007-08, we increased the number of direct investigation teams from one to two. At present, we do not have any plan to put in additional resources for conducting DIs in 2013-14.

Name in block letters: Alan N LAI

Post Title: The Ombudsman

Date: 3.4.2013

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

OMB003

Question Serial No.

4871

Head: (114) Office of The Ombudsman      Subhead: (000) Operating Expenses

Programme: (1) Complaints Administration

Controlling Officer: The Ombudsman

Director of Bureau: --

Question:

Will the Office of The Ombudsman put in more resources and manpower in order to conduct more direct investigations in 2013-14? If yes, what are the details? If no, why not?

Asked by: Hon. CHAN Ka-lok, Kenneth

Reply:

The Ombudsman is empowered to conduct direct investigations ("DIs") in the absence of complaints. This power enables him to look at issues at a more macro level. Before deciding whether to launch a DI against an organisation or into an issue, we may conduct an initial assessment (called "DI assessment").

The number of DIs and DI assessments completed in the years 2009-10 to 2011-12 are given below:

	Reporting Year*		
	2009-10	2010-11	2011-12
Number of DIs completed	7	6	5
Number of DI assessments completed	8	10	23

\* From 1 April to 31 March of the next year.

We expect to complete six DIs and 36 DI assessments in 2012-13, an increase over the past three years.

It has always been our policy to deploy resources as actual circumstances may require to handle complaint cases and to launch DIs into issues of wide community concern. In 2007-08, we increased the number of direct investigation teams from one to two. At present, we do not have any plan to put in additional resources for conducting DIs in 2013-14.

Name in block letters: Alan N LAI

Post Title: The Ombudsman

Date: 3.4.2013

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

OMB004

Question Serial No.

4872

Head: (114) Office of The Ombudsman      Subhead: (000) Operating Expenses

Programme: (1) Complaints Administration

Controlling Officer: The Ombudsman

Director of Bureau: --

Question:

Many members of the public would just lodge their complaints with the Office of The Ombudsman when they were not satisfied with certain decisions by Government departments. As a result, the Office received many complaints which were outside its jurisdiction and thus hampered its efficiency. Will the Office allocate resources in 2013-14 to launch a comprehensive public education programme to explain to the public its functions and the nature of complaints that it can pursue? If yes, what is the plan, projects and estimated expenses? If not, what is the reason?

Asked by: Hon. CHAN Ka-lok, Kenneth

Reply:

Each year, the Office of The Ombudsman allocates resources to publicity for enhancing public awareness of maladministration and the functions and powers of the Office.

In 2013-14, we will allocate considerable resources (around \$6,600,000) to continue with our publicity campaign, which includes advertising in various media, press conferences, publicity leaflets, seminars and outreach talks. In addition, we will revamp our website and launch our first television drama series this year. We intend to use the most popular media and simple ways to explain our work to the public, so that people have a better understanding of our functions.

Name in block letters: Alan N LAI

Post Title: The Ombudsman

Date: 3.4.2013

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

OMB005

Question Serial No.

3658

Head: (114) Office of The Ombudsman

Subhead: (000) Operating Expenses

Programme: (1) Complaints Administration

Controlling Officer: The Ombudsman

Director of Bureau: --

Question:

Regarding the records management practices in the Office of The Ombudsman for the past three years (2010-11, 2011-12 and 2012-13), please provide the following information:

1. The number of staff members dedicated to records management in your Office and their ranks. If there were no dedicated staff for records management, please provide the number of staff members involved in records management, the number of hours they spent on records management work, and the scope of duties concurrently carried out by them;
2. Please provide in the table below details of programme and administrative records which were closed and pending transfer to the Government Records Services ("GRS") for appraisal:

Type of records	Period covered by records	Number and linear metres of records	Year in which GRS appraised as having archival value	Confidential documents or not

3. Please provide in the table below details of programme and administrative records transferred to GRS for retention:

Type of records	Period covered by records	Number and linear metres of records	Year of transferring records to GRS	Year in which GRS appraised as having archival value	Confidential documents or not

4. Please provide in the table below details of records destroyed with the approval of GRS:

Type of records	Period covered by records	Number and linear metres of records	Year of transferring records to GRS	Year in which GRS appraised as having archival value	Confidential documents or not

Asked by: Hon. HO Sau-lan, Cyd

Reply:

The number of staff members dedicated to records management in this Office and their ranks are as follows:

Rank	Number
Senior Administrative Assistant	1
Administrative Assistant	6
Office Assistant	1

When The Ombudsman (Amendment) Ordinance 2001 took effect on 19 December 2001, this Office was established as a corporation sole and formally delinked from Government's systems, procedures and practices. Since then, The Ombudsman has full discretion to make financial and administrative arrangements for this Office. As a result, we take care of our own records management and do not need to transfer records to the Government Records Services for retention.

Name in block letters: Alan N LAI

Post Title: The Ombudsman

Date: 3.4.2013



**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

OMB006

Question Serial No.

3079

Head: (114) Office of The Ombudsman

Subhead: (000) Operating Expenses

Programme: (1) Complaints Administration

Controlling Officer: The Ombudsman

Director of Bureau:

Question:

Between 2009-10 and 2011-12, the number of complaints processed by the Office of The Ombudsman had increased while the number of recommendations made by the Office and those accepted had declined. What is the reason?

Asked by: Hon. KWOK Dennis

Reply:

On completion of full investigations and direct investigations, we will include in our investigation reports recommendations for improvement to the departments/organisations concerned. The aim is to encourage accountability and openness in public administration, while promoting transparent and customer-oriented services and improving work procedures and efficiency. We will also maintain contacts with the organisations concerned to follow up and monitor the implementation of our recommendations.

The numbers of recommendations made by this Office and accepted between 2009-10 and 2011-12 are listed below:

		Reporting Year*		
		2009-10	2010-11	2011-12
(a)	Complaints processed	4 775 [402]	5 437 [611]	5 237 [270]
(b)	Complaints concluded by full investigation	126	155 [76]	163 [61]
(c)	Direct investigations completed	7	6	5
(d)	Recommendations made by this Office	201	182	169
(e)	Recommendations accepted by departments/organisations concerned	195	161	151
(f)	Percentage of recommendations accepted	97.0%	88.5%	89.3%

\* From 1 April to 31 March of the next year.

[ ] Number of topical cases.

As the number of recommendations made by this Office depends on the facts of each individual case, the number of recommendations each year varies.

Name in block letters: Alan N LAI

Post Title: The Ombudsman

Date: 3.4.2013

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

OMB007

Question Serial No.

3080

Head: (114) Office of The Ombudsman

Subhead: (000) Operating Expenses

Programme: (1) Complaints Administration

Controlling Officer: The Ombudsman

Director of Bureau: --

Question:

Regarding the number of direct investigations, will the Office of The Ombudsman provide:

- 1) The number of direct investigations from 2009-10 to 2011-12 and the Government departments involved; and
- 2) The number of direct investigations completed from 2009-10 to 2011-12 had been declining year by year. What were the reasons?

Does the Office of The Ombudsman have any plan to step up its work with regard to direct investigations in future? If yes, what are the details of the plan and the estimated resources required? If no, why not?

Asked by: Hon. KWOK Dennis

Reply:

The Ombudsman is empowered to conduct direct investigations (“DIs”) in the absence of complaints. This power enables him to look at issues at a more macro level. Before deciding whether to launch a DI against an organisation or into an issue, we may conduct an initial assessment (called “DI assessment”).

The number of DIs and DI assessments completed in the years 2009-10 to 2011-12 are given below:

	Reporting Year*		
	2009-10	2010-11	2011-12
Number of DIs completed	7	6	5
Number of DI assessments completed	8	10	23

\* From 1 April to 31 March of the next year.

Details of the DIs completed from 2009-10 to 2011-12 and the Government departments involved are listed below:

<b>Year</b>	<b>Direct Investigation Reports</b>	<b>Government Departments Involved</b>
2009-10	1. Effectiveness of Administration of Code on Access to Information	Home Affairs Bureau and Constitutional and Mainland Affairs Bureau
	2. Granting of Disability Allowance and Processing of Appeals by Social Welfare Department	Social Welfare Department
	3. Handling of Complaints Involving Claims	Housing Department
	4. Checking of Eligibility for Subsidised Public Hospital and Health Services	Food and Health Bureau, Hospital Authority and Department of Health
	5. System for Development of Questions Papers in Public Examinations	Hong Kong Examinations and Assessment Authority
	6. Procedures for Processing Chained-transactions Involving Transfer/Retention of Vehicle Registration Marks	Transport Department
	7. Regulatory System of Lifts	Electrical and Mechanical Services Department
2010-11	1. Fire Safety Regulatory Measures	Fire Services Department and Food and Environmental Hygiene Department
	2. Allocation and Monitoring of Government Land	Education Bureau and Lands Department
	3. Driving-offence Points System	Transport Department
	4. Management of Non-emergency Ambulance Transfer Service by Hospital Authority	Hospital Authority
	5. Transport Department Actions for Safe Operation of Public Light Buses	Transport Department
	6. Enforcement against Unauthorised Building Works in New Territories Exempted Houses	Buildings Department and Lands Department
2011-12	1. Government Measures to Protect Country Park Enclaves	Development Bureau, Environment Bureau, Planning Department, Agriculture, Fisheries and Conservation Department, Environmental Protection Department and Lands Department
	2. Water Meters Reading and Billing System	Water Supplies Department
	3. Special Education Services for Students with Moderate to Severe Emotional and Behavioural Difficulties	Education Bureau and Social Welfare Department
	4. Mechanism for Monitoring Private Residential Care Homes for the Elderly	Social Welfare Department
	5. Granting of Short Term Tenancies at Nominal Rent	Lands Department

We expect to complete six DIs and 36 DI assessments in 2012-13, an increase over the past three years.

It has always been our policy to deploy resources as actual circumstances may require to handle complaint cases and to launch DIs into issues of wide community concern. In 2007-08, we increased the number of direct investigation teams from one to two. At present, we do not have any plan to put in additional resources for conducting DIs in 2013-14.

Name in block letters: Alan N LAI

Post Title: The Ombudsman

Date: 3.4.2013

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

OMB008

Question Serial No.

2274

Head: (114) Office of The Ombudsman

Subhead: (000) Operating Expenses

Programme: (1) Complaints Administration

Controlling Officer: The Ombudsman

Director of Bureau: --

Question:

The estimate for salaries and expenses in 2013-14 is \$99,540,000, an increase of \$5,376,000 compared with the actual expenditure in 2011-12. What is the reason for this increase in expenditure?

Asked by: Hon. LIAO Cheung-kong, Martin

Reply:

Provision for 2011-12 and 2012-13 for this Office is as follows:

	Financial Year		
	2011-12 (Actual)	2012-13 (Actual)	2013-14 (Estimate)
Financial provision (\$)	94,164,000	99,085,000	99,540,000
Increase over the previous year (\$)	-	4,921,000	455,000

The provision is for salaries and other operating expenses of this Office. Compared with 2011-12, there is an increase of \$4,921,000 in provision for 2012-13, of which \$4,430,000 is for salary adjustment while the rest is mainly for inflation adjustment.

The estimate for 2013-14 is \$455,000 higher than the provision for 2012-13 mainly due to inflation adjustment.

Name in block letters: Alan N LAI

Post Title: The Ombudsman

Date: 3.4.2013

**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

OMB009

Question Serial No.

1762

Head: (114) Office of The Ombudsman

Subhead: (000) Operating Expenses

Programme: (1) Complaints Administration

Controlling Officer: The Ombudsman

Director of Bureau:

Question:

What are the details of The Ombudsman's work schedule in the coming year, and the expenditure involved, for direct investigation into the access to information regime and the records management system in Hong Kong?

Asked by: Hon. MO Claudia

Reply:

On 4 January 2013, The Ombudsman initiated a direct investigation into the access to information regime and Government's records management system in Hong Kong.

First, this Office will look into the standards, practices and implementation of the Code on Access to Information currently adopted by Government, then compare the freedom of information regimes in other jurisdictions, so as to determine whether the public's right to access information in Hong Kong is adequately provided for and whether the measures taken are in keeping with modern standards of open and good administration.

Also, we will compare our Government's records management system with those in other jurisdictions, so as to find out whether there are systemic inadequacies in the retention and management of records in Hong Kong and how these inadequacies affect the public's access to information.

The organisations under investigation are mainly the Constitutional and Mainland Affairs Bureau, the Administration Wing and the Government Records Services. We are now conducting this direct investigation through the following approaches:

- (1) making inquiries with the organisations concerned, seeking information, conducting site visits, and meeting with senior officers of the organisations concerned;
- (2) studying the relevant annual reports, websites, legislation and media reports; and
- (3) inviting views on this subject from relevant sectors, experts and the community at large.

We expect to complete this direct investigation in late 2013 or early 2014.

Direct investigations are part of our normal duties, which are handled by our own Direct Investigation Teams. Therefore, no additional expenditure will be incurred in this direct investigation.

Name in block letters: Alan N LAI

Post Title: The Ombudsman

Date: 3.4.2013



**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

OMB010

Question Serial No.

3003

Head: (114) Office of The Ombudsman

Subhead: (000) Operating Expenses

Programme: (1) Complaints Administration

Controlling Officer: The Ombudsman

Director of Bureau: --

Question:

How many complaints are handled by mediation each year in the past three years, (i.e. 2010-11, 2011-12 and 2012-13)? What is the percentage of the total number of complaints that these cases account for? What is the success rate?

Asked by: Hon. WONG Ting-kwong

Reply:

The Ombudsman Ordinance empowers this Office to settle by mediation cases involving only minor or no maladministration.

The numbers and percentages of cases we handled by mediation in the past three years are listed below:

		Reporting Year*		
		2010-11	2011-12	2012-13 (First 11 months)
(a)	Number of complaints processed	5 437 [611]	5 237 [210]	4 929 [140]
(b)	Number of complaints handled by mediation	7	22 [16]	17
(c)	Number of complaints successfully concluded by mediation	7	22 [16]	17
(d)	Percentage of complaints handled by mediation = (b) / (a)	0.13%	0.42%	0.34%
(e)	Percentage of complaints successfully concluded by mediation = (c) / (b)	100%	100%	100%

\* From 1 April to 31 March of the next year.

[ ] Number of topical cases.

We will continue to use this alternative method for dispute resolution in complaint handling.

Name in block letters: Alan N LAI

Post Title: The Ombudsman

Date: 3.4.2013