

(Information note provided by The Ombudsman's Office)

Information Paper

**for LegCo Members' Meeting with The Ombudsman
on 3 December 2013**

(A) Work of The Ombudsman's Office

(i) For the year 2012-2013

In the 2012-2013 reporting year, the Office received a total of 12 255 enquiries and 5 501 complaints; and 5 401 complaints were concluded. Of these, 88.6% were concluded within three months, 10.7% were concluded between three to six months and 0.7% took more than six months to conclude.

2. For easy reference, statistics on complaints and enquiries for the past three years and the first seven months of 2013-2014 (that is, April to October) are tabulated below:

	Reporting year ¹			
	2010-11	2011-12	2012-13	2013-14 (April – October)
(1) Enquiries	12 227	12 545	12 255	8 049
(2) Complaints				
(a) For processing	6 467	6 085	6 349	4 495
- Received	5 339[627]	5 029[180]	5 501[238]	3 547[136]
- Brought forward ²	1 128	1 056	848	948
(b) Processed	5 437[611]	5 237[210]	5 401[235]	3 173[145]
Non-pursuable³	2 381[11]	2 560[127]	3 116[102]	1 712[101]
Pursued and concluded	3 056[600]	2 677[83]	2 285[133]	1 461[44]
- By inquiry ⁴	2 894[524]	2 492[6]	2 094[133]	1 271[35]
- By full investigation ⁵	155[76]	163[61]	169	171[9]
- By mediation ⁶	7	22[16]	22	19
(c) Percentage processed = (b) / (a)	84.1%	86.1%	85.1%	70.6%
(d) Carried forward = (a) – (b)	1 030	848	948	N.A.
(3) Direct investigations completed	6	5	6	2

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

Note 2. Including 34 and 26 re-opened cases in 2010-11 and 2011-12 respectively.

Note 3. Outside our jurisdiction or restricted by The Ombudsman Ordinance; withdrawn by complainant, discontinued or not undertaken by the Office, e.g. *subjudice* or lack of *prima facie* evidence.

Note 4. Pursued under section 11A of the Ordinance, for general cases.

Note 5. Pursued under section 12 of the Ordinance, for complex cases possibly involving serious maladministration, systemic flaws, etc.

Note 6. Pursued under section 11B of the Ordinance, for cases involving no, or only minor, maladministration.

[] Number of topical cases.

3. Similar to previous year, 73.8% of the complaints received in 2012-2013 were in writing and email (including online complaint form) remained the most common channel used, accounting for 39%, as shown in the table below:

Mode of lodging complaints	2010-11		2011-12		2012-13		2013-14 (April to October)	
	No.	%	No.	%	No.	%	No.	%
In person	634	11.9%	573	11.4%	769	14.0%	421	11.9%
In writing:	4 146	77.6%	3 905	77.7%	4 057	73.8%	2 667	75.2%
- by complaint form	544	10.2%	518	10.3%	621	11.3%	199	5.6%
- by letter through post	882	16.5%	947	18.8%	752	13.7%	740	20.9%
- by fax	766	14.3%	657	13.1%	540	9.8%	297	8.4%
- by online complaint form	170	3.2%	175	3.5%	180	3.3%	166	4.7%
- by email	1 784	33.4%	1 608	32.0%	1 964	35.7%	1 265	35.7%
By telephone	559	10.5%	551	10.9%	675	12.3%	459	12.9%
Total	5 339		5 029		5 501		3 547	

4. Six direct investigations were completed on the following subjects:

- (1) Booking and Use of Sports Facilities of Leisure and Cultural Services Department
- (2) Effectiveness of Administration of Temporary Closure of Metered Parking Spaces during Road Works Carried out by Public Utilities
- (3) Regulatory Measures and Enforcement Actions against Illegal Extension of Business Area by Restaurants
- (4) Conveyance of Patients by Ambulance to "Area Hospitals"
- (5) Administration of Government Policy on Private Recreational Leases
- (6) Recovery of Mortgage Default Debts

5. Apart from direct investigations, the Office also concluded 47 direct investigation assessments to ascertain the need for direct investigation. Topics included:

- (1) Illegal Burials at Public Cemeteries and their Vicinity
- (2) Processing of Applications for Building Maintenance Subsidy
- (3) Assessment of Premium for Home Ownership Scheme Flats

- (4) Parking Facilities for Motor Cyclists with Disabilities
- (5) Weather Forecasts by Hong Kong Observatory
- (7) Regulation of Gas Tubings
- (8) Pedestrian Flashing Green Countdown Display
- (9) Monitoring of Construction and Building Materials by Architectural Services Department

6. In the year, a total of 217 recommendations were made to improve various aspects of public administration. Of these, 161 were related to complaints and 56 resulted from direct investigations. As at October 2013, 90% of the recommendations had been accepted for implementation.

(ii) For the first seven months (April to October) of 2013-2014

7. During the period from April 2013 to October 2013, the Office received a total of 8 049 enquiries and 3 547 complaints.

8. Two direct investigations have been completed and six are still in progress.

Completed

- (1) Control of Healthcare Professions Not Subject to Statutory Regulation
- (2) Regulation of Sale of Chilled Meat

In progress

- (1) Regulatory Measures and Enforcement Actions against Street Obstruction by Shops
- (2) Access to Information in Hong Kong
- (3) Records Management Systems in Hong Kong

- (4) Transport Department's Mechanism for Monitoring Frequencies of Franchised Bus Services
 - (5) Non-means-tested Loan Scheme
 - (6) Medical Records Management by Hospital Authority
9. As regards direct investigation assessments, 16 have been completed. Some topics are highlighted below:
- (1) Regulation of Chinese Medicines
 - (2) Leisure and Cultural Services Department's Selection Criteria and Points System for Hiring of Tutors and Rental of Cultural Facilities by Organizations
 - (3) Applications for Changing the Terms of Sale of Prescribed Goods by Stall Licensees
 - (4) Enforcement of Tree Preservation Clauses in the Land Lease of a School
 - (5) Procedures for Collection of Information on Alteration of Property Layout

(B) Question raised by Ho Cyd HO Sau-lan

With regard to the direct investigation into the access to information regime and the Government's records management system in Hong Kong initiated by The Ombudsman in January 2013, what is the progress of work in relation to the Administration's records management?

1. On 4 January 2013, The Ombudsman declared a direct investigation into the access to information regime and the Government records management system in Hong Kong.
2. We will examine the concept, rules and implementation of the existing Government records management system and compare the system with those in other jurisdictions, so as to assess whether there are systemic inadequacies in the Administration and how these inadequacies affect the

public access to information. The major targets of investigation are the Administration Wing of the Chief Secretary for Administration's Office and its Government Records Service.

3. In our investigation, we are:

- (1) initiating inquiries with and seeking information from the relevant organizations, conducting site inspections and meeting the senior officers of the organizations;
- (2) studying the relevant annual reports, websites, legislation and media coverage; and
- (3) soliciting views from the related sectors and experts as well as the general public.

We expect that the direct investigation into the access to information regime and the Government records management can be completed in the first quarter of 2014.

(C) Questions raised by Hon CHEUNG Kwok-che

- (i) **According to the 2013 Annual Report of The Ombudsman ("the Annual Report"), of all the cases processed in 2012-2013, 3 116 cases (57.7%) were not pursued by the Office which consisted mainly of cases "withdrawn by complainant/discontinued by the Office", "restricted by The Ombudsman Ordinance", "outside the jurisdiction of the Office", and "not undertaken by the Office". Please list out the number of such non-pursuable cases in the following table form:**

	Number of cases not pursued			
Organization	Withdrawn by complainant/discontinued by the Office	Restricted by The Ombudsman Ordinance	Outside the jurisdiction of the Office	Not undertaken by the Office

1. Please see **Appendix I** for the distribution of the 3 116 cases not pursued by the Office in 2012-2013.

(ii) Please provide the specific reasons for those non-pursuable cases classified as "not undertaken by the Office".

2. "Complaints not undertaken by the Office" refers to complaints which The Ombudsman has decided not to process further after considering all the relevant circumstances, including where:

- (1) there is insufficient *prima facie* evidence of maladministration;
- (2) the Office's investigation of similar complaints before revealed no maladministration; and
- (3) the allegations are baffling and difficult to comprehend.

The Ombudsman Ordinance stipulates that if The Ombudsman decides not to pursue or process further a case, he should notify the complainant of his decision and the reason(s).

(iii) According to Table 4 of the Annual Report, the numbers of enquiry cases and complaint cases involving the Social Welfare Department in 2012-2013 were 375 and 210 respectively. Please provide a detailed breakdown of such cases (i.e. by type of social services or service units involved).

3. The Office of The Ombudsman does not categorise enquiry cases. In 2012-2013, the 375 enquiries involving the Social Welfare Department ("SWD") were mostly from members of the public who were dissatisfied with SWD's services and they asked about the procedures to lodge a complaint with the Office. Regarding the 210 complaint cases against SWD, please see **Appendix II** for a breakdown.

(D) Question raised by Hon Claudia MO

According to the "Report on the Working Group on Education for Ethnic Minorities" published by the Equal Opportunities Commission in 2011, the support provided by the Education Bureau to ethnic minorities is inadequate. The Bureau has not provided sufficient Chinese language training to ethnic minority students at pre-primary, primary and secondary levels, which has brought about immense difficulties to them in their academic pursuit and employment. As such, will The Ombudsman initiate direct investigation into these matters?

1. We understand that in its "Report on the Working Group on Education for Ethnic Minorities" submitted to the Education Bureau in March 2013, the Equal Opportunities Commission ("EOC") stated its detailed observations and analysis on whether the Government was providing equal and adequate opportunities to ethnic minority ("EM") students with respect to Chinese language training and learning. The Report also documented the main concerns and viewpoints of different stakeholders, together with a number of recommendations on lessening the difficulties in learning the language.

2. The Office of The Ombudsman strongly supports the provision of equal learning opportunities to EM students to help them integrate into the Hong Kong community. As the authority in handling racial discrimination problems, EOC already highlighted in the above Report the learning challenges faced by EM students and made its recommendations. The implementation of those recommendations would need more in-depth deliberations among EOC, the Administration and different stakeholders in order to secure their commitment and collaboration. Considerable time would be required to achieve it. As such, the Office has no plan at the moment to initiate a direct investigation into this subject.

Appendix I

Office of The Ombudsman Distribution of 3 116 Complaint Cases Not Pursued in 2012-2013

Organisation	No. of cases not pursued			
	Withdrawn by complainant or discontinued by the Office	Restricted by The Ombudsman Ordinance	Outside the jurisdiction of the Office	Not undertaken by the Office
Agriculture, Fisheries and Conservation Department	3	3	7	5
Airport Authority	-	-	-	1
Architectural Services Department	1	-	4	3
Audit Commission	-	1	-	-
Auxiliary Medical Service	-	2	2	-
Buildings Department	12	14	4	49
Census and Statistics Department	1	1	1	1
Civil Aviation Department	1	-	1	2
Civil Engineering and Development Department	-	-	-	5
Companies Registry	-	-	-	35
Consumer Council	2	1	-	11
Correctional Services Department	15	5	4	21
Customs and Excise Department	3	2	2	7
Department of Health	6	2	5	6
Department of Justice	1	1	13	16
Drainage Services Department	2	3	1	4
Electrical and Mechanical Services Department	2	5	3	8
Employees Retraining Board	1	-	1	7
Environmental Protection Department	1	5	2	9
Equal Opportunities Commission	-	-	12	23
Estate Agents Authority	1	-	-	1
Fire Services Department	4	4	13	26

Organisation	No. of cases not pursued			
	Withdrawn by complainant or discontinued by the Office	Restricted by The Ombudsman Ordinance	Outside the jurisdiction of the Office	Not undertaken by the Office
Food and Environmental Hygiene Department	21	39	24	146
General Office of the Chief Executive's Office	-	2	1	7
Government Logistics Department	-	1	-	-
Government Property Agency	-	-	2	1
GS - Chief Secretary for Administration's Office	6	-	-	78
GS - Civil Service Bureau	-	1	5	5
GS - Commerce and Economic Development Bureau	-	-	1	159
GS - Constitutional and Mainland Affairs Bureau	-	-	-	1
GS - Development Bureau	-	2	3	4
GS - Education Bureau	5	4	7	20
GS - Environment Bureau	-	-	-	2
GS - Financial Secretary's Office	-	1	1	-
GS - Financial Services and the Treasury Bureau	1	-	-	12
GS - Food and Health Bureau	-	1	-	2
GS - Home Affairs Bureau	1	-	-	7
GS - Labour and Welfare Bureau	-	1	2	3
GS - Security Bureau	-	1	-	1
GS - Transport and Housing Bureau	1	-	-	2
Highways Department	7	1	2	14
Home Affairs Department	2	9	2	53
Hong Kong Arts Development Council	-	-	-	1
Hong Kong Examinations and Assessment Authority	-	-	-	11

Organisation	No. of cases not pursued			
	Withdrawn by complainant or discontinued by the Office	Restricted by The Ombudsman Ordinance	Outside the jurisdiction of the Office	Not undertaken by the Office
Hong Kong Housing Authority	-	-	1	3
Hong Kong Housing Society	1	2	1	12
Hong Kong Monetary Authority	1	4	2	7
Hong Kong Observatory	-	-	2	2
Hong Kong Police Force	-	-	118	1
Hospital Authority	13	17	29	56
Housing Department	65	27	16	119
Immigration Department	77	12	7	37
Independent Commission Against Corruption	-	1	9	1
Information Services Department	-	-	-	2
Inland Revenue Department	8	7	1	15
Intellectual Property Department	-	1	-	1
Invest Hong Kong	-	1	-	1
Judiciary Administrator	4	7	20	23
Kowloon-Canton Railway Corporation	-	1	-	-
Labour Department	1	4	7	56
Land Registry	-	-	-	6
Lands Department	10	15	6	82
Legal Aid Department	3	12	2	18
Legislative Council Secretariat	-	-	3	8
Leisure and Cultural Services Department	18	15	14	40
Mandatory Provident Fund Schemes Authority	-	-	2	10
Marine Department	-	3	-	2
Office of the Communications Authority	-	2	4	26
Official Receiver's Office	-	1	-	181

Organisation	No. of cases not pursued			
	Withdrawn by complainant or discontinued by the Office	Restricted by The Ombudsman Ordinance	Outside the jurisdiction of the Office	Not undertaken by the Office
Planning Department	1	1	-	4
Post Office	8	7	5	10
Privacy Commissioner for Personal Data	1	5	3	16
Radio Television Hong Kong	-	-	3	5
Rating and Valuation Department	-	6	1	4
Registration and Electoral Office	1	1	1	3
Securities and Futures Commission	1	-	1	10
Social Welfare Department	18	12	9	67
Student Financial Assistance Agency	3	2	2	10
Trade and Industry Department	-	-	-	1
Transport Department	20	9	10	60
Treasury	-	1	2	-
Urban Renewal Authority	1	-	-	9
Vocational Training Council	-	1	2	4
Water Supplies Department	10	3	-	27
Other Organisations / Not Specified	13	19	200	111
Total	378	311	608	1 819

Appendix II

Complaints against Social Welfare Department in 2012-2013

Subject matter		Number of complaints
1.	Child abuse	6
2.	Custody of children	8
3.	Comprehensive Social Security Allowance	77
4.	Disability allowance	8
5.	Old Age Allowance	15
6.	Compassionate rehousing	18
7.	Homes for the aged/disabled	9
8.	Monitoring of fund raising activities	1
9.	Monitoring of NGOs	23
10.	Traffic Accident Victims Assistance Scheme	1
11.	Other matters	44
Total		210