

Summary of Annual Report
The Ombudsman Hong Kong
2011



We *discover*
and
discern

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Performance and Results

Enquiries and Complaints Processing

In 2010/11, we received 5,339 complaints, 11% higher than last year's 4,803. If topical complaints are excluded, the figure was 4,712, an increase of 6.85% from last year's 4,410.

Fig. 1

Enquiries and Complaints Received			
Year	Enquiries	Complaints	
		Total	Excluding topical complaints*
2006/07	15,626	5,606	N.A.
2007/08	12,169	4,987	N.A.
2008/09	14,005	5,386	4,533
2009/10	13,789	4,803	4,410
2010/11	12,227	5,339	4,712

* Statistics on topical complaints started to be kept only from 2008/09 onwards.



Topical Complaints

There continued to be a significant number (627) of topical complaints this year, comprising about 11.7% of all complaints received. The majority concerned the unauthorised development works in Tai Long Sai Wan in the New Territories (447 complaints). The remaining ones were largely related to the illegal occupation of Government land by a temple, and construction of a columbarium, the minibond saga, the Building Maintenance Grant Scheme for Elderly Owners and a dog catching incident allegedly involving cruelty to the dog.

Mode of Lodging Complaints

77.7% of the complainants lodged their complaints in writing. Email continued to be the most popular channel, as shown in Fig. 2.

Fig. 2

Mode of Lodging Complaints					
Mode	2006/07	2007/08	2008/09	2009/10	2010/11
In person	412	251	370	413	634
In writing -					
by complaint form	586	486	1,300	863	544
by letter through post	1,002	1,829	936	870	882
by fax	836	753	890	764	766
by email	2,461	1,380	1,515	1,362	1,954
By telephone	309	288	375	531	559
Total	5,606	4,987	5,386	4,803	5,339

Outcome of Investigations and Inquiries

We concluded 155 complaints by full investigation, with 48 (31%) substantiated, partially substantiated or substantiated other than alleged. The outcome of our full investigations is summarised in Fig. 3.

Fig. 3

Outcome of Complaints Concluded by Full Investigation		
Classification	No. of Cases	Percentage
Substantiated	26	16.8%
Partially substantiated	19	12.3%
Substantiated other than alleged	3	1.9%
Unsubstantiated	106 (76)	68.4%
Inconclusive	1	0.6%
Total	155 (76)	100.0%

(Note : Figures in brackets are topical complaints)

This year we recorded the outcome of all inquiry cases by whether maladministration is found. As **Fig. 4** shows, no fault was found in over half of the cases, while nearly 29% had maladministration found.

Fig. 4

Outcome of Complaints Concluded by Inquiry		
Outcome	No. of Complaints	Percentage
Maladministration found	835	28.9%
No evidence of maladministration	1,576	54.4%
Inconclusive	483	16.7%
Total	2,894	100.0%

Direct Investigation

We completed six direct investigations, covering subjects concerning fire safety, road safety, non-emergency ambulance service, unauthorised building works and allocation of Government land.

We also completed ten direct investigation assessments (or “mini-direct investigations”), examining issues in fields such as unlicensed ferry service, education funds, building safety, proper custody of patients in public hospitals, management of public housing estates and guesthouses and bedspace apartments.



Recommendations

We made a total of 182 recommendations, with 142 on completion of 155 full investigations (including 76 unsubstantiated topical complaints concluded without a recommendation) and 40 after six direct investigations. So

far, 161 recommendations (88.5%) have been accepted by the organisations for implementation, while the remaining 21 (11.5%) are still under consideration.

Our Performance

We continued to meet our pledges fully in respect of answering enquiries by telephone and in person and in arranging talks. For enquiries in writing, we answered 77.7% of them in five working days and 21.9% in six to ten working days. In one case (0.4%) we were unable to answer in ten working days.

Our performance in complaint handling is summarised in **Fig. 5**. For all the cases concluded during the year, we completed processing nearly 98% of the non-pursuable cases and over 99% of the pursuable cases within our respective pledged timeframes.

Fig. 5

(a) Response Time for Acknowledgement or Initial Assessment		
Within 5 working days (target : not less than 80%)	Within 6-10 working days (target : not more than 20%)	More than 10 working days
99.8%	0.2%	0.0%

(b) Processing Time for Cases Outside Jurisdiction or Under Restriction		
Within 10 working days (target : not less than 70%)	Within 11-15 working days (target : not more than 30%)	More than 15 working days
83.4%	14.5%	2.1%

(c) Processing Time for Other Cases Concluded		
Less than 3 months (target : not less than 60%)	Within 3-6 months (target : not more than 40%)	More than 6 months
74.5%	24.6%	0.9%

Reward and Challenge



Enhancing Quality Administration

We follow up our recommendations and suggestions until they have been implemented by organisations, resulting in visible improvement to their operations and services. The measures introduced by organisations in this respect fall broadly into the following:

- (a) guidelines for clarity, consistency or efficiency in operation;
- (b) better arrangements for inter-departmental coordination;
- (c) measures for better public enquiry or complaint handling;
- (d) measures for better services;
- (e) more reasonable rules and charges;
- (f) clearer and more information to the public; and
- (g) training for staff.

Resolving Complaints by Mediation

We have reviewed and updated our internal procedures for mediation, encouraged staff to identify suitable cases and succeeded in concluding seven cases by mediation. Feedback from parties to the complaints showed that mediation was welcome by both complainants and organisations.

Code on Access to Information

The Code is an important means to ensure open and accountable government and to protect the citizen's civil and political rights. This year we received 39 complaints relating to the Code. Recommendations were made to assist departments in adhering more closely to the spirit of the Code in handling requests for information from the public.

Addressing Systemic Issues

Many complaints have a common cause or share a similar pattern, indicating the presence of some more deep-rooted, systemic deficiencies. Removal of such systemic deficiencies will go a long way to improving public administration and avoid many future complaints.

Inter-departmental Coordination

The lack of inter-departmental coordination and the related problem of compartmental mentality continued to be the cause of many complaints. In a case concerning the flooding of a small path leading to a public recreation facility, the 1823 Call Centre was unable to identify the responsible department. Seeing the problem remaining unresolved for over a year, one department did admirably offer to do the repair, though this proved unnecessary following the eventual identification of the responsible department. Had all the departments involved adopted such an attitude from the start, the matter would have been resolved speedily, resulting in one less incident tarnishing Government's image.



The investigation on the problem of unclear delineation of responsibility between the Lands Department and the Buildings Department for enforcement against unauthorised building works in the New Territories was completed this year. The report revealed deficiencies in the "works in progress" policy exacerbated by the overly restrictive definition of responsibilities over the issue by the two departments.

Street management and seepage remained two perennial problems indicating a lack of concerted effort between the departments concerned.

Accountability

In many cases we saw ineffective action by Government departments to ensure timely correction of unsatisfactory performance by their consultants. Often the departments did no more than changing the consultant, with no measure for ensuring a better job by the new consultant. We consider that departments should discharge its supervisory responsibility over the consultants more actively.

Challenges from Parties

Re-assessment of Cases

Complainants disagreeing with our decision to screen out their cases may request re-assessment of their cases. During the year we received 290 requests for re-assessment, with 89 subsequently re-opened for inquiry.

Review of Cases

For cases that we have concluded after examination of the issues under complaint, complainants dissatisfied with our findings or conclusions may seek a review. This year we received 93 requests for review. We declined 26 of the requests and conducted 67 reviews. Decision was varied in eight cases after review and upheld for the rest.

Judicial Review

A complainant not satisfied with my decision may, apart from requesting a review by me, seek a judicial review by the court. There was no application for judicial review against my decisions this year.

Office Administration

Staffing

A new Deputy Ombudsman, Mr So Kam-shing, joined the Office in April 2010 to take over from Mrs Helen Yu, who retired after almost nine years' service in the post. We are grateful to Mrs Yu for her dedication and commitment in the promotion of the ombudsman system as well as bringing about a fair and efficient public administration during these years.

Training

We organised two induction programmes for our new recruits to enable them to become fully operational as quickly as practicable. In addition, we conducted training on language, customer service, telephone skills, interviewing techniques, etc. A mediation training course was arranged in May 2010. This reflects the increasing importance we attach to mediation as an effective means of conflict resolution.

Staff were also given the opportunities to expose themselves to practices and systems elsewhere. Two senior investigators joined a one-week course in Shanghai on administrative system and other developments in the Mainland. Locally, another two senior investigators were attached to the Complaints Division of the Legislative Council Secretariat to see how petitions by group complainants were received.

Publicity and External Relations

We launched a publicity campaign in October 2010. Five new short publicity videos on The Ombudsman's functions and jurisdiction were broadcast on TV, buses and trains. At the same time, print advertisements were placed in two popular local newspapers.

We also reach out to different sectors of the community through outreach talks, seminars and press conferences. For example, in December 2010, we organised a seminar on water seepage for our Advisers and JPs, and in March 2011, another seminar was organised for the assistants of Legislative Councillors and District Councillors on important community issues including building management, public housing, water seepage, transport facilities and public medical services.



At the district level, The Ombudsman met with the Chairmen and Vice-chairmen of the DCs in January 2011 to strengthen our relationship for the betterment of community services.

Every year, we acknowledge the efforts of public organisations and their officers exemplary in handling complaints and enhancing the quality of public administration. This year, the Grand Award went to the Immigration Department, with the Mandatory Provident Fund Schemes Authority and the Student Financial Assistance Agency as runners-up. Their representatives and 21 individual awardees were honoured in the Presentation Ceremony held on 16 November 2010.

At the international level, The Ombudsman was elected the Treasurer in the International Ombudsman Institute's Board Meeting in Bermuda in October 2010. The Ombudsman attended the Asian Ombudsman Association's Conference and Board Meeting in Manila, the Philippines in August 2010 and the 26th Australasian and Pacific Ombudsman Region Conference in Taiwan in March 2011.

Our Office has maintained close liaison with the China Supervision Institute. In October 2010, a six-member delegation from the Ministry of Supervision, China, visited

Hong Kong. The Deputy Ombudsman led a team of six members to Hubei and Guangdong in November 2010.

Looking Ahead

We regularly review and adjust our services to keep pace with public expectations. Apart from the views of the public, we will continue to draw on the suggestions and experience of various stakeholders and counterparts around the world. We believe that this will give us useful indicators to refine our practices for meeting the ever increasing service needs.

Fig. 6 Caseload

	Reporting year ¹				
	06/07	07/08	08/09	09/10	10/11
I Enquiries	15,626	12,169	14,005	13,789	12,227
II Complaints					
(a) For processing	6,282	5,929	6,671	5,869	6,467
- Received	5,606	4,987	5,386 [853]	4,803 [393]	5,339 [627]
- Brought forward ²	676	942	1,285	1,066	1,128
(b) Processed	5,340	4,644	5,701 [1,225]	4,775 [402]	5,437 [611]
Non-pursuable³	3,624	2,667	3,017 [814]	2,560 [100]	2,381 [11]
Pursued and concluded	1,716	1,977	2,684 [411]	2,215 [302]	3,056 [600]
- By inquiry ⁴	1,643	1,938	2,437 [224]	2,086 [302]	2,894 [524]
- By full investigation ⁵	71	38	247 [187]	126	155 [76]
- By mediation ⁶	2	1	0	3	7
(c) Percentage processed = (b) / (a)	85%	78.3%	85.5%	81.4%	84.1%
(d) Carried forward = (a) – (b)	942	1,285	970	1,094	1,030
III Direct investigations completed	4	4	6	7	6
IV Direct investigation assessments completed	5	2	4	8	10

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

Note 2. Including 96 and 34 re-opened cases in 2009/10 and 2010/11 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 (not available before 2008/09).