

## Publicity and Public Relations

This year, we took steps to enhance public understanding of our jurisdiction while sustaining our efforts for a positive service culture in the public sector.

Our short flimclip was broadcast on TV, radio, buses and trains from late February to March 2008 to reinforce public awareness of our role and functions.

Public organisations and officers exemplary in handling complaints and improving public administration were honoured with The Ombudsman's Awards in October 2007: the Buildings Department (Grand Award), the Judiciary Administration, the Student Financial Assistance Agency and 24 public officers. Over 150 representatives from more than 30 public organisations witnessed this proud occasion.

In late August 2007, I led a small delegation to the Mainland for a week-long study tour to the China Supervision Institute. We had in-depth exchange of views, sharing experience on systems and practices for monitoring public administration with the officials

in Beijing, Dalian and Inner Mongolia. These sessions gave us considerable insight into Mainland operations while offering our counterparts in China a clearer understanding of our processes and pursuits.

From time to time, we commission Government's Census and Statistics Department to conduct Thematic Household Surveys to gauge the complaint culture of the local community and ascertain public expectations of statutory complaint channels. This year, the survey was conducted in June 2007.

Over 8,000 households were interviewed. The findings indicated that 18.4% of the respondents, compared with 13.8% in the March 2003 survey, had experience of lodging a complaint against some Government department or public bodies for maladministration and The Ombudsman's Office was one of the top three channels for the public complaints, after the department or public body concerned and District Council or members. I am delighted that there was greater public awareness of my power in conducting direct investigations than before. These findings give us pointers to fine-tune our *modus operandi* for better service to our community.

Fig. 6 Caseload

	Reporting year <sup>#</sup>				
	03/04	04/05	05/06	06/07	07/08
<b>(A) Enquiries received</b>	<b>12,552</b>	<b>11,742</b>	<b>14,633</b>	<b>15,626</b>	<b>12,169</b>
<b>(B) Complaints received<sup>®</sup></b>	<b>4,661</b>	<b>4,654</b>	<b>4,266</b>	<b>5,606</b>	<b>4,987</b>
<b>(C) Complaints brought forward</b>	<b>772</b>	<b>1,088</b>	<b>719</b>	<b>676</b>	<b>942</b>
<b>(D) Complaints for processing = (B) + (C)</b>	<b>5,433</b>	<b>5,742</b>	<b>4,985</b>	<b>6,282</b>	<b>5,929</b>
<b>(E) Complaints handled and concluded</b>	<b>4,345</b>	<b>5,023</b>	<b>4,309</b>	<b>5,340</b>	<b>4,644</b>
<b>By preliminary inquiries</b>	<b>1,834</b>	<b>1,873</b>	<b>1,758</b>	<b>1,643</b>	<b>1,938</b>
By referral to complainee departments/organisations for replies (INCH)	203	209	185	143	81
By rendering assistance/clarification (RAC)	1,631	1,664	1,573	1,500	1,857
<b>By full investigation</b>	<b>284</b>	<b>125</b>	<b>55</b>	<b>71</b>	<b>38</b>
— Withdrawn/Discontinued	6	0	2	0	1
— Substantiated	14	31	13	15	10
— Partially substantiated	24	46	14	16	12
— Unsubstantiated	236	45	26	39	14
— Inconclusive <sup>^</sup>	1	0	0	0	0
— Substantiated other than alleged	3	3	0	1	1
<b>By mediation</b>	<b>7</b>	<b>6</b>	<b>12</b>	<b>2(6*)</b>	<b>1(3*)</b>
<b>Complaints screened out</b>	<b>1,892</b>	<b>1,948</b>	<b>1,113</b>	<b>2,385</b>	<b>1,246</b>
— Restrictions	1,259	1,132	351	394	375
— Outside jurisdiction	633	816	762	1,991	871
<b>Complaints not pursued</b>	<b>-</b>	<b>-</b>	<b>1,371</b>	<b>1,239</b>	<b>1,421</b>
— Discontinued	-	-	137	57	436
— Withdrawn	328	1,071	147	164	157
— Not undertaken <sup>®</sup>	-	-	1,087	1,018	828
<b>(F) Percentage of complaints concluded = (E) ÷ (D)</b>	<b>80%</b>	<b>88%</b>	<b>86%</b>	<b>85%</b>	<b>78.3%</b>
<b>(G) Total cases carried forward = (D) - (E)</b>	<b>1,088</b>	<b>719</b>	<b>676</b>	<b>942</b>	<b>1,285</b>
<b>(H) Number of direct investigations completed</b>	<b>5</b>	<b>5</b>	<b>4</b>	<b>4</b>	<b>4</b>
<b>(I) Direct investigation assessment reports produced</b>	<b>5</b>	<b>6</b>	<b>6</b>	<b>5</b>	<b>2</b>

<sup>#</sup> Each reporting year is from 1 April to 31 March of the next year.

<sup>®</sup> From 2006/07, excluding "complaints to others copied to us".

<sup>^</sup> Previously "Incapable of Determination".

\* Number of cases attempted for mediation but not accepted by party(ies) concerned.

# THE OMBUDSMAN HONG KONG

## 2008 Summary of Annual Report



Promote **Fair,**  
**Open** and **Effective**  
Public Administration



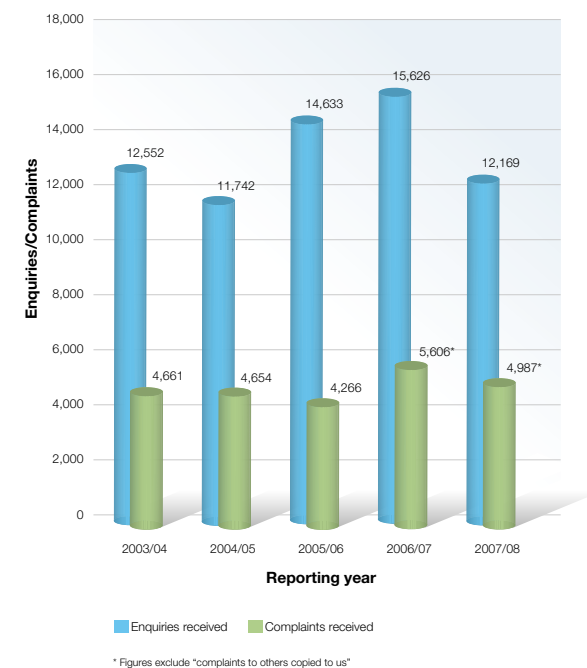
# Summary of Annual Report of The Ombudsman Hong Kong June 2008

## Performance and Results

### Enquiries and Complaints Processing

We received 12,169 enquiries and 4,987 complaints this year, a slight drop from last year's record high.

**Fig. 1 Enquiries and Complaints Received**



Topical issues continued to generate group complaints. During the year, we received over 1,100 such complaints.

Group complaints have changed the overall pattern of complaint received. With some 700 complaints arising from one group case all coming in by letter through the post, this made the most frequently used means of complaint for the year.

**Fig. 2 Mode of Lodging Complaints**

Mode	2003/04	2004/05	2005/06	2006/07	2007/08
<b>In person</b>	324	396	231	412	251
<b>In writing –</b>					
by complaint form	722	934	613	586	486
by letter through post	1,634	1,599	1,303	1,002	1,829
by fax	972	615	863	836	753
by email	742	821	902	2,461	1,380
<b>By telephone</b>	267	289	354	309	288
<b>TOTAL</b>	<b>4,661</b>	<b>4,654</b>	<b>4,266</b>	<b>5,606</b>	<b>4,987</b>

### Major Causes for Complaint

As before, the five causes most mentioned by complainants this year were:

- disparity in treatment, unfairness, selective enforcement;
- error, wrong decision/advice;
- failure to follow procedures, delay;
- negligence, omissions; and
- ineffective control.

However, they did not come in exactly the same order.

### Outcome of Inquiries

**Fig. 3 Substantiation Figures of Complaints Concluded by Full Investigation**

Classification	No. of Complaints
Substantiated	9
Partially substantiated	13
Substantiated other than alleged	1
Unsubstantiated	14
Withdrawn/Discontinued	1
<b>TOTAL</b>	<b>38</b>

**Fig. 4 Outcome of RAC Cases**

Outcome	No. of Complaints
Remedial action required	640
No evidence of maladministration	1,200
Inconclusive	17
<b>TOTAL</b>	<b>1,857</b>

### Direct Investigation

We completed four direct, or own-motion, investigations, with 61 recommendations, and two direct investigation assessments (or "mini-direct investigations") this year. Four other direct investigations were in progress at the end of the year.

**Fig. 5 Direct Investigation Reports Completed in 2007/08**

Date	Subject
12 November 2007	Mechanism for Handling Conflict of Interests in Organisations Subvented by Leisure and Cultural Services Department
14 February 2008	Special Examination Arrangements for Students with Specific Learning Difficulties
13 March 2008	Alleged Overcharging of Water Bills
31 March 2008	Handling of Water Seepage Complaints

### Our Performance

We continued to meet our pledges fully in respect of handling enquiries and arranging group visits and talks this year. In processing complaints, we almost fully achieved our target time for acknowledging and completing initial assessment of complaints. For cases screened in for further processing, we concluded 98% of the cases within the pledge processing time of six months.

### Reward and Challenge

#### Enhancing Quality Administration

This year, we made 103 recommendations to the organisations concerned on completion of full investigation into 38 complaint cases and four own-motion investigations. They fall broadly into six categories:

- guidelines for clarity, consistency or efficiency in operation;
- better arrangements for inter-departmental coordination;
- measures for better public enquiry/complaint handling;
- measures for better client services;
- clearer information to the public; and
- training for staff.

Over 95% of the recommendations have been accepted for implementation.

## Code on Access to Information

The Ombudsman has the statutory responsibility to inquire into complaints of breach of the administrative Code on Access to Information, which requires Government departments to provide information they hold to the public upon request, unless there are valid reasons as specified in the Code. Public awareness of the Code remains low though rising. This year, we received 15 related complaints, compared with six last year, and concluded nine cases, including two carried from last year. In handling these cases, we observed a general lack of understanding of the Code among some Government departments. We consider it unacceptable that, despite the Code having been in force for over 11 years, knowledge of it outside and even within Government, should be so poor. Government must step up efforts to publicise the Code and to promote understanding, especially within the civil service.

## Addressing Systemic Issues

In our inquiries, we find the same mistakes repeated, invariably often stemming from systemic defects. We draw them to the attention of the organisations concerned or the Administration. Where justified, we initiate our own direct investigations even in the absence of complaints for in-depth scrutiny.

## Water Seepage and the Joint Office

Government set up in mid-2006 a Joint Office for a one-stop service with staff from the Buildings Department and the Food and Environmental Hygiene Department and better technical equipment for tests, to deal with seepage complaints territory-wide. Despite good intentions, many deficiencies surfaced in the initial operation of the Joint Office and itself became the cause of numerous complaints. This prompted us to initiate a direct investigation. Apart from deficiencies in procedures and practices, our investigation, completed in March this year, revealed organisational defects: e.g. exclusion of the Water Services Department, loose structure without clear line of command and hence the lack of accountability. We recommended improvement measures for both the short and the long term.

## Street Management and Coordination

Street management issues are another major source of public concern and irritation, reflecting inadequate inter-departmental coordination and cooperation. Typically, these issues fall marginally within the jurisdiction of a cross-section of enforcement departments, with much grey area in determining the laws applicable. Our direct investigation into Government measures for street management is underway.

## Challenges from Parties

### Revived Cases

Complainants dissatisfied with our findings or conclusions may seek a review of their cases. This year, we received 310 requests for review (336 last year). The Ombudsman's decision was varied in seven cases after review (11 last year).

### Judicial Review and Litigation

During the year, in a case concerning the granting of Comprehensive Social and Security Assistance, the complainant applied for leave for judicial review against our decision. After consideration of the documents filed by the complainant, the High Court refused to grant leave. In another case, concerning termination of public housing tenancy, the complainant initiated civil proceedings against the case officer and an officer of the Housing Department. The case was struck out by the Court of First Instance after hearing.

## Abuse of the Complaint System

Occasionally we see complainants "stretching" the complaint system to the point of abuse. In some cases, the complaints were lodged clearly for pressure on departments or for personal vendetta against business rivals, neighbours or other individuals. For example, when Government authorities refused to entertain such unfounded and unreasonable requests, the complainants then turned against those authorities. In handling any complaints, we firmly adhere to our fundamental principle of maintaining impartiality and would duly comment.

## Jurisdictional Review

With the completion last year of Part One of our jurisdictional review, I completed Part Two of the review this year. This surveyed developments in ombudsmanship worldwide and examined their possible implications on our Office. It was presented to the Administration in November 2007.

## Representation on Other Public Bodies

Since the setting up of the Independent Police Complaints Council ("IPCC"), The Ombudsman or his representative has been *ex officio* member of the Council. With the leakage of personal data relating to public complaints against the Police and investigation of the matter by the Privacy Commissioner for Personal Data ("PCPD"), I raised doubts on the propriety of my continued participation in the work of IPCC as both PCPD and the IPCC Secretariat are within my purview. In May 2007, the Administration accepted my request for release from membership of IPCC to avoid any potential or perceived conflict of roles.

Meanwhile, the Administration gazetted in June 2007 the Independent Police Complaints Council Bill, which had been under draft for years. The Bill, with an amendment to remove the IPCC secretariat from The Ombudsman's purview, is now under consideration in the Legislative Council. The amendment raises the questions of whether IPCC should come within my jurisdiction for allegations of maladministration and complaints under the Code on Access to Information.

## Office Administration

To meet service needs due to rising public awareness of their rights, we have restructured our establishment on 1 November 2007. Investigation teams were increased from four to five and the Direct Investigation team put to rest in 2002/03 due to funding constraint in the public sector was reinstated. In this connection, we recruited a few more full-time and part-time or temporary investigators, as well as redeployed our manpower.

The number of temporary investigators employed in 2007/08 equated to 4.4 full time investigators.

To enhance our competitiveness in recruitment and retention of quality staff, we reviewed our salary level in mid-2007/08, making reference to those in the civil service and kindred public organisations. Subsequently, we adjusted our entry salaries of non-directorate ranks to narrow the difference in salaries between our Office and the civil service. However, our remuneration for individual grades remains no better than those of comparable civil service ranks.

For development of our staff, we continued to attach utmost importance to training. We also believe in cross-fertilization. In March, we organised a joint forum with the Equal Opportunities Commission and the Office of the Privacy Commissioner for Personal Data. This facilitated exchanges on the mode of operation, delivery of service and techniques in customer service. The forum enhanced mutual understanding and opened up areas for cooperation.