



## The Ombudsman

The Office of The Ombudsman of Hong Kong (formerly known as The Office of The Commissioner for Administrative Complaints) was established in 1989. The office was formally delinked from the Government after The Ombudsman (Amendment) Ordinance came into operation on December 19, 2001. The Ombudsman is appointed by the Chief Executive of the Hong Kong Special Administrative Region. He serves as the community's watchdog to ensure that:

- Bureaucratic constraints do not interfere with administrative fairness
- Public authorities are readily accessible to the public
- Abuse of power is prevented
- Wrongs are righted
- Facts are pointed out when public officers are unjustly accused
- Human rights are protected
- The public sector continues to improve quality and efficiency

**Powers and Jurisdictions:** The powers and jurisdictions of The Ombudsman include investigation of complaints of maladministration against all Government departments (except the Hong Kong Police Force and the Independent Commission Against Corruption) and 19 major statutory organisations – the Airport Authority, Employees Retraining Board, Equal Opportunities Commission, Financial Reporting Council, Hong Kong Arts Development Council, Hong Kong Examinations and Assessment Authority, Hong Kong Housing Authority, Hong Kong Housing Society, Hong Kong Monetary Authority, Hong Kong Sports Institute Limited, Hospital Authority, Kowloon-Canton Railway Corporation, Legislative Council Secretariat, Mandatory Provident Fund Schemes Authority, Office of the Privacy Commissioner for Personal Data, Securities and Futures Commission, Urban Renewal Authority, Vocational Training Council and West Kowloon Cultural District Authority.

Investigations can also be initiated on The Ombudsman's own volition, without any complaint received, and he can publish anonymised investigation reports of public interest at any time.

The Ombudsman has the power to investigate complaints of non-compliance with the Code on Access to Information by the Hong Kong Police Force, the Independent Commission Against Corruption, the Hong Kong Auxiliary Police Force and the Secretariat of the Public Service Commission, in addition to Government departments and organisations under his jurisdiction.

However, there are some restrictions to The Ombudsman's powers under the Ordinance. For instance, he will not normally investigate complaints which have a statutory channel for appeal or objection, or where a similar complaint has been investigated and no

maladministration has been found, or complaints which are trivial, frivolous, vexatious or made in bad faith.

**Mode of Lodging Complaints:** Complaints can be lodged in writing, by email or by phone. Post-free complaint forms are obtainable at the Office of The Ombudsman and District Offices of the Home Affairs Department. Complainants can visit the Office of The Ombudsman in person to seek assistance. The Office also accepts complaints lodged by telephone when the complainants are simple or when the complainants have difficulty to express themselves in writing. All complaints lodged with the Office are treated in the strictest confidence.

**Handling of Complaints:** In general, the Office will handle complaints by the following four methods:

- a. Internal Complaint Handling Programme ("INCH") – for less complex cases, the Office will undergo inquiry under INCH with the consent of the complainant. The Ombudsman will transfer the complaint to the complainee organisation(s), which will be responsible for replying directly to the complainant. The Ombudsman will monitor the reply made by the organisation(s) concerned and will intervene if the complaint is not handled properly or completely.
- b. Rendering Assistance/Clarification ("RAC") – for dispute ongoing for some time or complainants do not consent to referral to complainee organisation(s) for replies, The Ombudsman will request the complainee organisation(s) to provide information and comments, The Ombudsman will then write to the complainant to explain or clarify the case. If serious maladministration is discovered in the process of investigation, a full investigation can be developed.
- c. Mediation – with the voluntary consent of both the complainant and the organisation concerned, mediation may be adopted to settle a dispute. The two parties meet to resolve the dispute directly. The Ombudsman will act as a neutral mediator, and will not make any judgment or comment on the dispute.
- d. Full Investigation – for complex cases involving issues of principle or serious maladministration, The Ombudsman will conduct a full investigation, with prior notice to the Head of the organisation under complaint. Full investigation involves examining documents, conducting site inspections and summoning witnesses, etc. If a complaint is substantiated, the Office will make recommendations to the organisation concerned and issue draft Investigation Report to the Head of the organisation for their comments. Subsequently the Office will monitor the implementation of recommendations by the organisation(s).

**Performance Results in 2008/09:** The number of complaints handled and concluded during the reporting

year of 2008/09 reached a record high, at 6 671 and 5 701 respectively. On completion of full investigation of 60 cases (excluding topical complaints) and six direct investigations, 85 and 68 recommendations respectively were made, that is a total of 153. As of March 31, 2009, 118 (77.1%) of them have been accepted by the organisations for implementation and 35 (22.9%) are still under consideration. None has been rejected.

**Education and Publicity:** The Office of The Ombudsman undertakes a wide variety of activities in educating the public on their rights to a responsible, fair, open and efficient public administration. These include:

- distributing publicity leaflets and posters;
- broadcasting publicity messages on local television, radio and local transports;
- producing publicity video on the purview, functions and powers of the Office;
- developing interactive computer game;
- organising press conference and publishing regular newsletter, the *OmbudsNews*,

- conducting visits, briefings and talks to Government departments, major statutory organisations, universities, schools, social services organisations, District Councils, etc.;
- launching a series of exhibitions introducing the work of the Office;
- enlisting the assistance of the Justices of the Peace to promote ombudsmanship;
- organising workshops on complaint management;
- organising The Ombudsman Awards to recognise professionalism in complaint handling and to foster a positive culture in public sector;
- opening The Ombudsman's Resource Centre to the public; and
- announcing news and developments of the Office through the website.

**Liaison with Other Ombudsman Institutions:** The Ombudsman of Hong Kong has been elected as a member of the Board of Directors of the International Ombudsman Institute ("IOI") and the Secretary of the Asian Ombudsman Association ("AOA").