

# 2013

**Summary of  
Annual Report**  
The Ombudsman  
Hong Kong



# Summary of Annual Report The Ombudsman Hong Kong June 2013

## Performance and Results

### Enquiries and Complaints Processing



In 2012/13, we received 5,501 complaints, a 9.4% increase when compared to 5,029 of last year. The figure would be 5,263 if secondary cases in topical complaints were discounted. Both figures were the highest in the past five years.

Fig. 1

Enquiries and Complaints Received			
Year	Enquiries	Complaints	
		Total	Excluding topical complaints
2008/09	14,005	5,386	4,533
2009/10	13,789	4,803	4,410
2010/11	12,227	5,339	4,712
2011/12	12,545	5,029	4,849
2012/13	12,255	5,501	5,263

### Topical complaints

Topical complaints received this year gave rise to 238 secondary cases, comprising about 4.3% of all complaints received. The largest group concerned the Agriculture, Fisheries and Conservation Department's measures to deal with stray cats. Two other groups of topical complaints were related to allegations by a group of detainees in an immigration centre about ill-treatment and the use of simplified Chinese characters in certain decorative lightings.

### Mode of Lodging Complaints

Email remained the most common channel used in lodging complaints, accounting for 2,144 (39%) of all the complaints received.

Fig. 2

Mode of Lodging Complaints					
Mode	2008/09	2009/10	2010/11	2011/12	2012/13
In person	370	413	634	573	769
In writing –					
by complaint form	1,300	863	544	518	621
by letter through post	936	870	882	947	752
by fax	890	764	766	657	540
by email	1,515	1,362	1,954	1,783	2,144
By telephone	375	531	559	551	675
<b>TOTAL</b>	<b>5,386</b>	<b>4,803</b>	<b>5,339</b>	<b>5,029</b>	<b>5,501</b>

### Outcome of Investigations and Inquiries

We concluded 169 complaints by full investigation, with 94 (55.6%) *substantiated, partially substantiated or substantiated other than alleged*.

Fig. 3

Outcome of Complaints Concluded by Full Investigation		
Classification	No. of Complaints	Percentage
Substantiated	32	18.9%
Partially substantiated	55	32.6%
Substantiated other than alleged	7	4.1%
Unsubstantiated	75	44.4%
Inconclusive	0	0.0%
<b>Total</b>	<b>169</b>	<b>100.0%</b>

Of the 2,094 inquiry cases concluded, inadequacies or deficiencies were found in 671 (32%). We would suggest improvement measures where due, whether or not inadequacies or deficiencies were found.

### Direct Investigation

We completed six direct investigations during the year. The subjects studied covered the administration of temporary closure of metered parking spaces during road works, the booking and use of Government sports facilities, the administration of Government policy on private recreational leases, conveyance of patients by ambulance to "area hospitals", recovery of mortgage default debts under the Home Ownership Assistance schemes and enforcement against illegal extensions by food establishments.

We also completed 47 direct investigation assessments. Most of them were related to actions taken on reports of illegal occupation of Government land and illegal structures. Others covered the management of public cemeteries and illegal burials, parking facilities for motor cycles for persons with disabilities, weather forecasts by the Hong Kong Observatory and the regulation of gas tubings.



## Recommendations



On completion of 169 full investigations, we made 161 recommendations. We also made 56 recommendations after six direct investigations. Among this total of 217 recommendations, 192 (88.5%) have been accepted by the organisations for implementation and 25 (11.5%) were still under consideration as at 31 March 2013.

### 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 86.8% of them in five working days and 12.1% in six to ten working days.

On complaint handling, we acknowledged 98.9% of all complaints received within five working days. For processing cases outside jurisdiction or under restriction, we exceeded the target timeframe of 15 working days in 1.8% of the cases. For other complaint cases, we concluded 86.3% (against a target of no less than 60%) within three months.

Fig. 4

#### (a) Processing Time for Cases Outside Jurisdiction or Under Restriction

Year	Response Time		
	Within 10 working days (target : >70%)	Within 11-15 working days (target : <30%)	More than 15 working days
2012/13	89.5%	8.7%	1.8%

#### (b) Processing Time for Other Cases Concluded

Year	Response Time		
	Less than 3 months (target : >60%)	Within 3-6 months (target : <40%)	More than 6 months
2012/13	86.3%	12.8%	0.9%



## Reward and Challenge



### Enhancing Quality Administration

An important aspect of our complaint handling work is to make recommendations to the organisations under complaint with an aim of improving their quality of administration. Measures for better client services, enhanced guidelines for staff and clearer and more timely information for the public were the categories where most recommendations were made.

### Mediating Disputes

We successfully concluded 22 cases by mediation. They concerned a wide range of matters such as water seepage, remarking of public examination papers, provision of lighting in public housing estates and better postal delivery service.

### Transparent Government and Access to Information

The number of complaints received relating to the Code increased significantly, from last year's 35 to 59 this year. We concluded 49 Code cases during the year, with faults or defective handling of requests for information found in 20 of them. A major fault found was unreasonable refusal to provide information, wholly or partly, mostly for a wrong reason but it was not rare that no reason was given at all. Procedural defects were also identified in some cases.

## Identifying and Tackling Systemic Issues



### ***Lack of Determination to deal with long-standing problems***

Government's lack of determination to tackle perennial problems continued to be a systemic issue identified. In a complaint case handled during the year, a number of departments had attempted to tackle the illegal occupation of Government land with various excuses. The problem remained unresolved for 30 years, until after we had investigated a complaint from a citizen. We consider it essential that departments/organisations should be sensitive to emerging new issues and nip the problems in the bud rather than procrastinating action until the problems have grown and taken root.

### ***Failure to keep proper records***

In a number of cases we handled, we noticed that some departments/organisations were lax in keeping proper records. In all these cases, they claimed to have sent a reply to the complainant or have kept the complainant informed of progress of the handling of his case, but our inquiries could find no record of such action having been taken. We consider this malpractice a reflection of the lack of sense of accountability.

### Challenges from Parties

#### ***Re-assessment of Cases***

Complainants disagreeing with our decision to screen out their complaints may request to have their cases re-assessed. During the year we received 374 requests for re-assessment, with 119 subsequently re-opened for inquiry.

## Review of Cases

For cases concluded after we have examined the issues under complaint, complainants dissatisfied with our findings or conclusions may seek a review. This year we received 88 requests for review, with 40 declined and 48 reviews conducted. Decision was varied in three cases after review and upheld for the remaining 45.

## Judicial Review and Litigation

A complainant not satisfied with our decision may, apart from requesting a review by The Ombudsman, seek a judicial review by the court. During the year, a complainant sought leave to appeal against the High Court's refusal to his application for judicial review against The Ombudsman's decision. The case would be heard by the Court of Appeal. Another complainant lodged a claim with the Small Claims Tribunal against our Office for not taking up his complaint. The case was struck out in the first hearing in September 2012 with cost to our Office.

## Challenging Complainant Behaviours

From time to time we encounter challenging complainant behaviours in the course of our work. We handle these professionally and objectively. At the same time we are mindful of the need for effective deployment of our resources for better service for the public and responding to the challenges sensibly.

## Resistance to Our Inquiries

We experienced misunderstanding by some public officers who viewed our inquiry as creating unnecessary work if they considered the complaint as unjustified. We had to explain to them that we must not pre-judge a case before inquiry. By insisting on objectivity and impartiality, we may win public confidence on the fairness of our findings, even where we conclude a complaint as unsubstantiated.

## Office Administration

### Staffing

During the year, we retitled the "Complaints Officer Grade" to "Investigation Officer Grade" to better reflect the job nature of our investigation officers. A total of 12 new investigation staff in different ranks were appointed this year. We continued to introduce career opportunities in our Office to members of the public, particularly university students by participating in different career exhibitions.

### Training

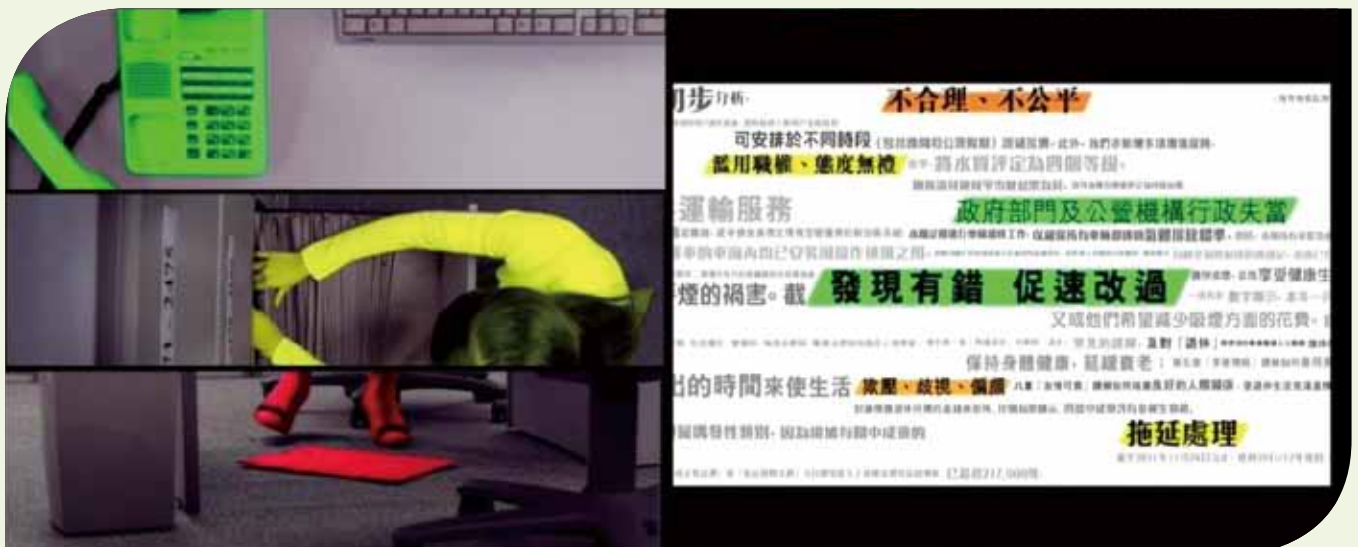
We conducted an induction programme for the new recruits, a workshop on handling difficult situations, and another workshop on presentation skills to enrich our staff with professional knowledge and skills. We provided sponsorship for investigation staff to attend more elaborate training and attain accreditation as mediators. Ten officers attended the International Ombudsman Institute ("IOI") Regional Training Programme to enhance their exposure in complaint handling.

## Revamp of Information Technology Systems

With the advance in information technology, the Office has planned to upgrade our computer system for the handling and management of complaints. This would lead to a more efficient workflow and less use of paper.

## Publicity and External Relations

We rolled out a publicity campaign with the tag-line "We identify mistake and urge for prompt correction". The campaign covered local television, public transport, online TV channels, free dailies and bus station shelters. We also organised a series of roving exhibitions in 11 locations across the territory.



This year, The Ombudsman's Awards were presented to the Social Welfare Department (Grand Award), the Hong Kong Monetary Authority, the Water Supplies Department and 41 public officers. Meanwhile, we continued to reach out to different sectors of the community through outreach talks, seminars, press conferences and online channels.

Besides meetings and visits to our overseas and mainland counterparts, the Office hosted the IOI Mid-term Board of Directors Meeting in Hong Kong and co-organised the IOI Regional Training on Complaint Management with the Commission Against Corruption of Macao during the year.

## Looking Ahead

To step up our campaign this year, we are cooperating with Radio Television Hong Kong to produce a television programme with eight episodes, to be broadcast in summer 2013. In addition, we have embarked on a project for the revamp of the Office website to facilitate convenient access to our website information. We will continue our efforts in reaching out to the public by different creative means.

Fig. 5

Caseload					
	Reporting year <sup>1</sup>				
	08/09	09/10	10/11	11/12	12/13
<b>Enquiries</b>	<b>14,005</b>	<b>13,789</b>	<b>12,227</b>	<b>12,545</b>	<b>12,255</b>
<b>Complaints</b>					
<b>(a) For processing</b>	<b>6,671</b>	<b>5,869</b>	<b>6,467</b>	<b>6,085</b>	<b>6,349</b>
- Received	5,386 [853]	4,803 [393]	5,339 [627]	5,029 [180]	5,501 [238]
- Brought forward <sup>2</sup>	1,285	1,066	1,128	1,056	848
<b>(b) Processed</b>	<b>5,701 [1,225]</b>	<b>4,775 [402]</b>	<b>5,437 [611]</b>	<b>5,237 [210]</b>	<b>5,401 [235]</b>
<b>Non-pursuable<sup>3</sup></b>	<b>3,017 [814]</b>	<b>2,560 [100]</b>	<b>2,381 [11]</b>	<b>2,560 [127]</b>	<b>3,116 [102]</b>
<b>Pursued and concluded</b>	<b>2,684 [411]</b>	<b>2,215 [302]</b>	<b>3,056 [600]</b>	<b>2,677 [83]</b>	<b>2,285 [133]</b>
- By inquiry <sup>4</sup>	2,437 [224]	2,086 [302]	2,894 [524]	2,492 [6]	2,094 [133]
- By full investigation <sup>5</sup>	247 [187]	126	155 [76]	163 [61]	169
- By mediation <sup>6</sup>	0	3	7	22 [16]	22
<b>(c) Percentage processed = (b) / (a)</b>	<b>85.5%</b>	<b>81.4%</b>	<b>84.1%</b>	<b>86.1%</b>	<b>85.1%</b>
<b>(d) Carried forward = (a) – (b)</b>	<b>970</b>	<b>1,094</b>	<b>1,030</b>	<b>848</b>	<b>948</b>
<b>Direct investigations completed</b>	<b>6</b>	<b>7</b>	<b>6</b>	<b>5</b>	<b>6</b>

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

Note 2. Including 96, 34 and 26 re-opened cases in 2009/10, 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.