

The Ombudsman's Review



There is no better way to start my first Review as Ombudsman than expressing my immense gratitude to my predecessor, Mr Alan Lai, for handing over to me the Office on such a robust foundation and in such a healthy, vibrant state.

It is common knowledge that one cannot build a great building on a weak foundation. A solid foundation is essential for a solid structure. It is also a much appreciated legacy for those who have responsibility in not only maintaining its strength, but ensuring that it evolves as necessary with a changing environment.

Before I assumed my post of Ombudsman in April 2014, I noted that our Office had begun a process of evolution through promoting the use of mediation as an alternative to the conventional ways of handling complaints, namely, inquiry and full investigation. Even more notable and indeed widely acclaimed was its effort (by way of a full investigation on the Government's Code on Access to Information) to champion the principle of freedom of information.

Building on past successes of my predecessor, I took it upon myself to explore how to develop those two areas further.

On mediation, I asked myself the questions:

- When handling complaints, must we always go through the more time-consuming process of inquiry/full investigation and eventually issue a letter/investigation report to the complainant after months, highlighting any maladministration on the part of the organisation (Government department/public body) concerned?
- Is that what all or most complainants really want?

The Ombudsman Ordinance provides that The Ombudsman may decide to deal with a complaint by the speedier process of mediation if the subject matter of the complaint involves no, or only minor, maladministration. Our trained officers act as impartial mediators to help the complainants and the organisation under complaint to arrive at a mutually acceptable solution to the problem. Surely, many complainants suffering from an organisation's delay in relieving their plight would welcome our prompt mediation for problem-solving, much more than a lengthy letter/report from our Office accounting for the incident and detailing the organisation's inadequacies.

It was, of course, not easy at first for my staff to convince complainants and organisations of the merits of mediation. Through their efforts in addressing the concerns of complainants and organisations, and through their persistent hard work, this year recorded a four-fold increase in the number of mediation cases to 138.

I should stress that this increase in the use of mediation was not at the expense of our mainstream investigation work. Quite the contrary, our endeavour has proved to be an effective triage measure – using mediation for quick resolution of complaint cases where appropriate, thereby saving manpower for full investigation on cases involving more serious maladministration and direct investigation for overhaul of organisations' systems and procedures. The numbers of full investigations and direct investigations this year stood at 314 and seven respectively, compared with 321 and six in 2013/14.

Resources and other circumstances permitting, I plan to further increase the number of direct investigations gradually in the years to come.

The previous direct investigation on access to information, mentioned above, was comprehensive and cogent, detailing a number of important recommendations. The Office will continue to closely monitor the Government's implementation of all the recommendations, in particular those relating to extending the Code on Access to Information to cover more public bodies and promoting public education on citizens' right of access to information.

Meanwhile, the Office has developed a dossier of major complaint cases relating to the Code for staff reference and training. We have also started to adapt that dossier for publication on our website so that public officers and the general public will soon be able to turn to it for reference.

So much for our new endeavours. In this day and age, we need to keep reminding the public of what we have to offer, lest our quiet efforts would fall into oblivion. Hence, as in previous years, we have advertised on the television, the radio and in newspapers, as well as with other media such as roadshows on public transport and exhibitions. The theme of the latest advertisement, "tai chi" (in local slang meaning "shirking of responsibility") and "say no to maladministration", was plain and appealing to the public, I acknowledge that the message, and for that matter, any criticisms that we levelled against organisations in the course of our work may, to some extent, have aroused unpleasant feelings among public officers.

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Of course, it has never been our intention to stigmatise public officers or to sweepingly discredit their work. Indeed, The Ombudsman appreciates the diligence, professionalism and cooperation shown by public officers in responding to our inquiries and investigations. Our role is to be an impartial adjudicator of complaints, not an advocate for any particular party. Where complainants are found to be unreasonable, dishonest or vexatious, we do not hesitate to point out the truth.

While our inquiries and investigations inevitably add to the already heavy workload of organisations, such actions serve to either vindicate what they have done or identify areas for improvement which would help prevent recurrence of mistakes and complaints. As it turned out, the majority of complaints were found unsubstantiated, meaning that the organisations were exonerated after our independent and impartial inquiry/investigation. Had those cases been brushed aside, the organisations concerned would never have learnt about the grievances, justified or not, of the people they serve; and the complainants would have been deprived of an official explanation from the organisations. Worse still, the pent-up negative energy of grievances and frustration would sooner or later find its way to cause greater harm.

I hope public officers can appreciate the meaning and positive value of our intervention.

We will continue to publicise the role of The Ombudsman and promote a positive complaint culture. We will also reach out actively to organisations to enhance mutual understanding and cooperation. Feedback from stakeholders about any aspects of our work is of course, always welcome.

Connie Lau

The Ombudsman

31 March 2015