

LC: CS presents Government Minute in response to Annual Report of The Ombudsman 2018

Following is the speech (translated from Chinese) by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in presenting the Government Minute in response to the Annual Report of The Ombudsman 2018 in the Legislative Council today (December 12):

President,

Today, I submit the Government Minute (GM) responding to the recommendations set out in the Annual Report of The Ombudsman 2018 (the Annual Report).

The Ombudsman summed up 12 direct investigation and 195 full investigation cases and made a total of 209 recommendations in the Annual Report. The GM responds to the 10 direct investigation and 83 full investigation cases where recommendations were made by The Ombudsman. Government departments and relevant public bodies accepted most of The Ombudsman's recommendations, and follow-up actions have been or are being taken accordingly. As for individual recommendations that were not accepted, relevant departments or public bodies have given an account to The Ombudsman, explaining their difficulties or other follow-up actions taken in response to relevant issues.

In 2017-18, the Office of The Ombudsman (the Office) handled nearly 4 800 complaints by way of inquiry, full investigation or mediation. Of these, 237 cases were concluded by mediation, representing a rise of over five folds as compared to 2013-14; while the number of participating Government departments and public bodies went up from 11 half a decade ago to 28 last year. I am most thankful to The Ombudsman for promoting mediation and bringing in a breath of fresh air. Many complaints involving no or only minor maladministration can be settled quickly with satisfactory outcomes for all parties by this speedy, convenient and amicable approach. I encourage more Government departments and public bodies to resolve disputes with the public by mediation as far as possible. With the Apology Ordinance coming into effect in December last year, departments and public bodies should also offer apologies, where appropriate, for the inconvenience and nuisance experienced by the public.

Over the past four years, the Office has furthered its emphasis on direct investigation. Apart from a significant increase in the number of direct investigations completed each year, the Office was committed to examining public administration issues with extensive and profound impact on Hong Kong people, as well as exploring long-term solutions in collaboration with Government departments. The Office made a total of 63 recommendations in

10 of the 12 direct investigations completed last year. As mentioned by The Ombudsman in the Annual Report, direct investigation reports catalysed changes in Government policies and measures in recent years. As a catalyst for enhancing the quality of public administration, the Office is a powerful change agent. Government departments and public bodies were also receptive to the Office's recommendations, and actively improved the quality and effectiveness of their services, thereby enhancing operation efficiency and responsiveness to public needs.

For instance, after conducting a direct investigation into the criteria and procedures for procurement and withdrawal of library materials by the Leisure and Cultural Services Department (LCSD), the Office made a number of recommendations on effective utilisation of public resources for procurement of library materials, and proper disposal of worn-out/damaged and outdated library collections. LCSD immediately reviewed and revised the procedure of setting procurement targets and compiling procurement plans. It has also been keen to explore possible collaboration with non-profit-making organisations in disposing withdrawn books through donation and a trial scheme on community book sharing, subject to compliance with Government regulations, cost-effectiveness and availability of resources, so as to better serve the community.

In addition, thanks to the Office's direct investigation into subjects such as the Government's mechanism for handling smoking offences, its control over fly-tipping of construction waste and landfilling activities on private land, as well as its regulation of factory canteens, there has been better communication and collaboration among Government departments, and greater efficiency and proactiveness in taking law enforcement actions. Such improvements have brought tangible benefits to the living environment, safety and health of our citizens.

While stepping up its effort on direct investigation, the Office has not overlooked the complaints lodged by individual complainants. In 2017-18, the Office conducted full investigation into 195 complaints, and close to 70 per cent of the complaints were found to be unsubstantiated after investigation. In its striving for justice for members of the public through professional investigation/inquiry and impartial judgement, the Office was also conscious of the constraints faced by Government departments and public bodies in deploying resources and exercising statutory powers. For instance, the Office respected the practice of the Buildings Department and the Lands Department in handling issues of building safety, illegal structures and illegal occupation of government land, taking into account such factors as threat to public safety when setting the priorities for enforcement actions. Some of the investigation findings also indicated that Government departments and public bodies had already made every effort within their purview to handle the issues and requests raised by members of the public. The Ombudsman praised some Government departments and public bodies in particular for taking follow-up actions and making improvements on relevant issues even before the Office concluded its investigations. This is an apt demonstration of the positive interactions between the Office and Government departments. On the other hand, the Office also made rather strong criticisms against

Government departments and public bodies, and reminded them to utilise their resources and powers in more flexible and targeted manner to enable effective law enforcement and solve problems for members of the public. Such criticisms and recommendations are worth the reflection of departments and public bodies.

As mentioned in the Government Minute last year, the number of requests for information made to Government departments has been on the rise. In 2017-18, departments received a record high of over 6 100 requests for information made by members of the public under the Code on Access to Information (the Code), which was an increase of over 10 per cent as compared to the figure in 2016-17. Even so, more than 94 per cent of the cases were provided with all the information requested and 3 per cent of them were provided with part of the information requested. In 2017-18, the Office also received as many as 91 Code-related complaints, which shows mounting public expectation for an open and accountable Government. In the investigation of 71 Code-related cases concluded in 2017-18, the Office found non-compliance with the Code in 30, mostly relating to nonconformity with specific provisions of the Code and refusal of requests for information without sufficient justification. To enhance understanding about the spirit and principle of the Code among departments, the Government has sought to strengthen staff training. A training video was produced in the third quarter of this year for the reference of staff involved in regular handling of Code requests. The purpose is to improve staff awareness and understanding of the various provisions of the Code including justifiable reasons to refuse disclosure of information. In addition, the Constitutional and Mainland Affairs Bureau will continue to send officers to relevant departments to provide briefing on cases and content of the Code.

At the same time, the Government attaches importance to the Office's recommendations regarding the enactment of access to information and archives laws. The Law Reform Commission (LRC) launched on December 6 this year a public consultation on its studies about reforming the system of access to information and archives law. The Government will pay close attention to the public's views on these two issues, study and follow up the recommendations as appropriate after the LRC has completed its consultation and published its final reports.

President, I would like to express my gratitude to The Ombudsman, Ms Connie LAU, and her professional team for their independent and impartial handling of public complaints as well as their dedication to raising the standard of public administration of Hong Kong over the last four years. The comprehensive and in-depth investigations as well as constructive criticisms and recommendations of the Office, coupled with the positive response of the departments and bodies concerned, have greatly benefitted the community of Hong Kong. The Government will continue to support The Ombudsman's work and looks forward to meeting public expectation more effectively in its administration and better addressing the needs of our society in the delivery of public services.

Thank you, President.