

*Issue No. 3 of Reporting Year 2005/2006
(1 September 2005)
Office of The Ombudsman, Hong Kong*



*Direct Investigation into the Assessment of
Children with Specific Learning Difficulties*

This Office will initiate a direct investigation into Government's arrangements for assessing children with specific learning difficulties under section 7(1)(a)(ii) of The Ombudsman Ordinance. The background, purpose and scope of this direct investigation are at **Annex A**.



*Direct Investigation into the Monitoring of
Property Services Agents by Housing Department*

The executive summary of the investigation report is at **Annex B**.



Enquiries

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**Office of The Ombudsman, Hong Kong
1 September 2005**

Issue No. 3 of 2005/06

OMBUDSMAN INITIATES DIRECT INVESTIGATION INTO ASSESSMENT OF CHILDREN WITH SPECIFIC LEARNING DIFFICULTIES

The Ombudsman is initiating a direct investigation into Government's arrangements for assessing children with specific learning difficulties ("SpLD").

SpLD can be described as an unexplained condition, occurring in a child of average or above average intelligence, characterized by a significant delay in one or more areas of learning. SpLD is not due to mental retardation or any form of acquired brain trauma or ailment. Despite adequate intelligence and education opportunities, children with SpLD often have problems with one or more of the basic processes used in understanding or using spoken or written language, such as:

- ◆ listening
- ◆ speaking
- ◆ reading
- ◆ writing
- ◆ reasoning
- ◆ mathematical calculations

The cause of SpLD is presently unknown. Diagnosis calls for considerable expertise in ascertaining how a child has developed in intelligence, academic achievement and other special abilities and in determining whether a cause for his difficulties can be found. Assessment of the disability is required to establish the type of support and services a child may require. With appropriate training, he can learn or be assisted to bypass his gateway difficulties.

"We have had complaints about the assessment of children with SpLD and support services for them. Many parents are ignorant about what services are available, who provide such services and how and how far they are delivered. Some media reports suggest that the number of children with SpLD far exceeds the official figures of about 3,000 identified in the past three years. We are concerned whether services and assistance are rendered efficiently and properly to such children and their parents." Ms Alice Tai, The Ombudsman, said today (1 September 2005).

Against this background, The Ombudsman has decided to initiate a direct investigation pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance. "As the subject covers a broad spectrum of services far too complex for a single inquiry, we will first focus on assessment arrangements for kindergarten and primary school children. We may follow up on arrangements for support services." Ms Tai said.

In this investigation, we will examine the administrative arrangements of the Education and Manpower Bureau ("EMB") and the Department of Health ("DH") in the following areas:

- (a) assessment services for identifying SpLD in children from kindergarten to primary six;
- (b) the respective roles of EMB and DH in such services;

- (c) co-ordination –
 - (i) within Government; and
 - (ii) between Government and non-government organizations;
- (d) action by Government to enhance public awareness (parents and teachers in particular) of SpLD; and
- (e) efficiency of the current mechanism.

We will enlist the assistance of relevant experts, other Government departments or organizations: e.g. the Social Welfare Department, Hospital Authority, Hong Kong Examinations and Assessment Authority, Equal Opportunities Commission and non-government organizations.

The Ombudsman has informed the Permanent Secretary for Education and Manpower and the Director of Health of this direct investigation.

The Office of The Ombudsman welcomes views from members of the public on the matter. Comments should reach the Office of The Ombudsman at 30/F, China Merchants Tower, Shun Tak Centre, 168-200 Connaught Road Central, Hong Kong (or by fax to 2882 8149 or e-mail to complaints@ombudsman.gov.hk) by 3 October 2005.

Office of The Ombudsman
September 2005

Executive Summary of the Direct Investigation Report on Monitoring of Property Services Agents

Introduction

As the Housing Authority (“HA”)’s executive arm, the Housing Department (“HD”) is responsible for managing its public rental housing (“PRH”) estates. Since 1996, management of some PRH estates has been outsourced to management agents.

2. Many complaints against HD lodged with The Ombudsman’s Office concern the management of PRH estates. Subsequent inquiries into these complaints reveal that HD monitoring of management agents’ performance varies from estate to estate and is uneven in standard, efficiency and effectiveness. PRH residents constitute one-third of the local population. Concerned that HD monitoring of agents’ performance be effective and efficient in ensuring proper tenant services, The Ombudsman initiated a direct investigation in January 2005 to examine:

- (a) HD’s role and responsibilities in guiding and supervising management agents in:
 - (i) provision of property management services to tenants; and
 - (ii) handling complaints from tenants;
- (b) HD’s actions, including enforcement action under the relevant ordinances, to complement the services provided by management agents;
- (c) provision of training and guidance for HD staff in the management of such agents, including the respective roles and responsibilities of HD and the agents;
- (d) remedial action in case of unsatisfactory performance by the agents; and
- (e) efficacy of the current arrangements.

Outsourcing Strategy

Background

3. As at August 2005, HD has jurisdiction over 153 PRH estates, with approximately 590,000 domestic units. Of these, management of 84 estates with some 290,000 units has been outsourced to management agents.

4. In 1996, HD first entrusted general property management and minor maintenance works to management contractors, called “property management agents”, with supervision by HD staff on site.

5. In 2000, HA introduced new contracting-out arrangements for higher cost-effectiveness and greater flexibility. Each contract to “property services companies” covered two to three estates comprising 6,000 to 10,000 domestic units, together with their ancillary shopping centre and parking facilities.

6. HD has since consolidated its lists of management contractors into one single list of property services agents (“PSAs”).

Services of PSAs

7. PSAs are required to operate independently by setting up their own offices in PRH estate under their management, where HD would have withdrawn its field staff. As part of their property management (including maintenance services) and tenancy management functions, PSAs are expected to deal with all estate management-related complaints in accordance with HD internal instructions. PSAs are to attend to minor repair or maintenance works independently, without having to seek HD’s prior approval. Where the service contract also covers major repair and planned maintenance works, the PSA is required to be project manager and supervise HD works contractors. Although HD retains its statutory authority and does not delegate to PSAs, it expects them to assist in the exercise of such authority.

Responsibilities of HD

8. HD supervises the PSAs. It also retains responsibility for handling special tenancy management issues such as household splitting.

Award of Property Services Contracts

9. Property services contracts are awarded through open tender. Bidders may propose their own standards against HD’s key performance indicators or just adopt the minimum service standards set by HD. In evaluating tenders, HD places equal weighting on tender price and technical details.

Monitoring of PSAs

Support for PSAs

10. HD provides support to PSAs mainly through handing-over meetings and Best Practice Notes (“BPN”). However, it expects PSAs to be conversant with all HD internal circulars, instructions as well as the BPN in their day-to-day work.

Assessment Scheme

11. HD monitors the performance of PSAs mainly through an assessment scheme comprising three components:

	<u>Component</u>	<u>Weighting</u>
(a)	HD assessment	50%
(b)	Estate Management Advisory Committee (“EMAC”) assessment	20%
(c)	Tenant assessment	30%
	Overall assessment	100%

HD Assessment

12. HD has a PSA Administration Unit in each of its five geographical regions. Every Unit has four to five PSA monitoring teams, each overseeing six to eight estates managed by two to three PSAs. A monitoring team comprises six to seven multi-disciplinary members. It carries out scheduled monthly inspections in each estate and assesses PSAs’ performance against the standards set out in the service contracts. These monthly inspections, announced beforehand, are supplemented by surprise inspections conducted at least once a month but usually confined to specific aspects only. As a moderation mechanism, the head of each Unit reviews the monthly assessments of his teams to ensure consistency in assessment standard.

EMAC Assessment

13. PSA performance is also subject to assessment by EMACs. Membership may vary from four to over ten and includes Mutual Aid Committee Chairmen of various blocks in the estate. During their bi-monthly meetings, EMAC members assess the performance of the PSA in their estate, based on their personal impressions and any feedback they receive from other residents.

Tenant Assessment

14. In addition, HD appoints consultants to conduct quarterly surveys to gauge the level of tenants’ overall satisfaction with the PSA managing their estates. For each PSA, up to 150 households are selected randomly from all estates on its schedule. Each household is interviewed by telephone for views on PSA staff, environment, security, repair and maintenance works.

PSA Review Committee

15. A PSA Review Committee, comprising Assistant Director (Estate Management) as chairman and all regional Chief Managers, meets quarterly to review the monthly HD assessments, bi-monthly EMAC assessments and quarterly tenant assessments. It then ranks all PSAs in the order of their total scores. The top 25% are allowed full tender opportunities, the bottom 25% debarred from tendering and the middle quartiles allowed limited tender opportunities in up-coming exercises.

16. The Committee also singles out the three PSAs with the lowest overall scores and the three with the lowest scores in each of the three assessment components (i.e. HD, EMAC and tenant assessment) for discussion as to whether an “adverse” report should be given. A PSA with three consecutive “adverse” reports is automatically debarred from tendering in the following six months. HD may terminate the contract if a PSA has more than three consecutive “adverse” reports.

Remedies for Unsatisfactory Performance

17. When a PSA fails to perform satisfactorily, HD may issue warning letters, give adverse ratings, interview the PSA, suspend it from tendering for up to six months, rectify the irregularity at the PSA's expense, re-enter upon the estate (i.e. HD resumes part, or all, of the management duties) or remove the PSA from the list.

Case Studies

18. We have examined some cases to gain an insight into how HD monitors PSA performance. We found that some PSAs:

- (a) are weak in managing large-scale maintenance works;
- (b) take too long over certain repair works;
- (c) have difficulties in carrying out HD's statutory functions without the Department's support;
- (d) have by default taken over HD's authority for allocation of PRH units; or
- (e) are confused over its role in allocating venues for public use.

These point to the fact that HD does not give adequate support to PSAs, close enough supervision over them or timely intervention when warranted. In addition, we note that many tenants are not aware of HD's monitoring role as this has not been widely publicized.

Our Observations and Opinions

19. Our investigation has focused on whether, in outsourcing the management of PRH estates, HD recognises that it retains ultimate accountability for the provision of quality services to PRH tenants.

Support from HD

20. HD keeps its distance in managing and monitoring PSA performance. Once awarded a contract, PSAs are given only an induction briefing and some written instructions from HD. They are then expected to operate on their own without active support from HD. This is so, even though the contracts require PSAs to execute PRH policies, a function quite unique and different from private estate management. Essentially, PSAs have to deliver services while learning to adjust to public sector practices through actual operation.

21. Furthermore, as HD has retained its statutory authority, PSAs have no legal backing for such operations as clearance of illegal hawkers and eviction of tenants. Nor is active support from HD always available when difficulties arise.

22. Given the complexity of some of HD's policies and internal instructions, we suggest that it is not sufficient for HD to rely on BPN and induction briefings to "train" PSAs for HD's statutory functions. Nor is it realistic to expect all PSAs (regardless of experience) simultaneously to learn on the job and to work entirely on their own. As for HD staff training, regular interactive

seminars and discussions are necessary for updating and sharing experience. Adequate and regular briefings, positive support and as appropriate physical backup, should also be extended to PSAs to facilitate their proper discharge of duties, particularly where statutory authority is involved.

Supervision of Maintenance Works

23. HD staff have acknowledged that many PSAs lack the necessary experience and expertise to deal with HD works contractors and to handle works orders in accordance with HD procedures. We consider that HD should seriously review the requirement for PSAs to supervise or manage major repairs and planned maintenance works. If this is to continue, HD must provide proper support and adequate guidance to PSAs, particularly at the initial stage of the management contract. HD should review and streamline its works procedures for PSAs' efficient operations and effective supervision of HD contractors.

Monthly Inspection

24. The effectiveness of HD assessment of PSA performance through monthly inspections is impaired by undue emphasis on form over matter, absence of contact with tenants and prior announcement. We believe that surprise inspections would reflect the field situation much better than pre-arranged visits and should be a separate and an important component for assessment of PSAs.

25. Given the diverse backgrounds of monitoring team members, guidance for consistency and uniformity of assessment standards is of paramount importance for fair and equitable assessment of PSAs. We are concerned that standards of actual assessment of PSA performance lack consistency among the assessors in different monitoring teams and across regions. In addition to the issue of BPN, instructions and guidelines, we consider that regular forums for the monitoring teams should be held to review practices, exchange views and promote common understanding.

EMAC assessment

26. We have observed a number of anomalies:
- (a) EMAC weighting in the total assessment score is the same regardless of size or representativeness of an EMAC;
 - (b) its scores can be quite extreme; and
 - (c) its assessment is based largely on the members' personal impressions.

Tenant assessment

27. The sample size for the quarterly tenant surveys is limited to only 150 households per PSA, irrespective of the number or population size of the estates managed by the PSA. The aim is an overall assessment of tenants' satisfaction with **each PSA** across all estates in its portfolio. We suggest that such surveys should also cover tenants' satisfaction with the PSA's performance in **each estate** in its portfolio.

28. In this connection, we note that the number of complaints on PSA-managed estates received by HD headquarters is considerably higher than that on HD-managed estates (e.g. 209:131

for the period January to March 2005). This is at variance with the figures from HD's Public Housing Opinion Surveys, which show a tenant satisfaction level of 65.1% for PSA-managed estates in 2004. HD should, therefore, analyse the number and nature of the complaints received to help identify the weaknesses and strengths of individual PSAs, the needs of tenants in different estates and any deficiencies in the survey methodology.

Overall scores

29. The deficiencies of the current assessment scheme are also reflected in the marginal difference between the scores of PSAs in the top and the bottom quartiles. In one case we studied, the lowest score was 45.85 and the highest only 53.77; and yet these form the basis of HD's consideration for future engagement of the PSAs.

30. To eliminate obvious bias in the assessment scheme, we consider that HD should conduct an early review including, but not limited to, the weighting of each component.

HD Performance in Monitoring

31. HD completely withdraws its staff from an estate once a PSA has taken over the management. Consequently, tenants may not be aware that HD still retains ultimate control and responsibility over estate management matters. When confronted with complaints from tenants, some HD staff conveniently shield themselves behind the property services contracts and pass the blame to the PSA concerned.

32. Some HD staff do not see it their role to train or guide PSAs; others are, quite rightly, concerned that too much direct involvement would be tantamount to doing PSAs' job. We consider it necessary for HD's distance monitoring to be reinforced with staff awareness that the Department is ultimately accountable for the management of PRH estates.

Dealing with unsatisfactory performance

33. In theory, PSAs with more than three consecutive "adverse" reports are liable to contract termination. Yet, this has never happened. HD just issues repeated warnings or debars the offending PSA from tendering for new contracts. In the past five years, there was only one single case of partial "re-entry", in which HD took over the maintenance works portion of the contract concerned. We suggest that HD should terminate PSA contracts in serious cases of non-performance and resume part, or all, of its management duties.

Conclusions and Recommendations

34. We endorse outsourcing as capable of delivering efficient, flexible and cost-effective tenant services in PRH estates. We also accept that it would not be realistic or reasonable for HD to supervise every detail of PSA operations or to deal with all tenant requests or complaints directly. However, given HD's ultimate responsibility for the management of PRH estates, HD should be firmer, more positive and more proactive in monitoring PSA performance to ensure quality services to tenants. HD should give PSAs proper guidance and active support where appropriate (e.g. in enforcement matters).

35. In this context, The Ombudsman makes the following recommendations for HD's consideration:

Principle of Accountability

- (a) To impress upon staff, through written instructions, briefings and training, that HD continues to discharge statutory functions not delegated to PSAs and remains ultimately responsible for overall PRH management;
- (b) To enhance publicity to promote proper awareness and understanding of HD's role in monitoring PSAs and responsibility in PRH management;

Support to both HD and PSA staff

- (c) To formulate guidelines and procedures for HD staff on the extent and timing of intervention or support to PSAs;
- (d) To update HD instructions and BPN regularly to ensure that they are comprehensible and comprehensive, meeting current needs;
- (e) To organize regular briefings, seminars and forums for HD staff and PSAs to enhance their understanding of HD guidelines, procedures and instructions;

Supervision of Maintenance Works

- (f) To review and streamline its works procedures to facilitate PSA operations;
- (g) To evaluate more carefully, in the selection of PSAs, tenderers' aptitude for PRH maintenance works;
- (h) To organize training for PSAs on HD works procedures;
- (i) To consider ways to facilitate PSAs' effective control over HD works contractors;
- (j) To exercise re-entry when necessary;

Assessment and Remedies

- (k) To conduct surprise inspections more frequently to cover all aspects and to include their findings and scores as a separate and important component of the overall assessment;
- (l) To review the Department's moderation mechanism to ensure consistency of assessment standards in general;
- (m) To organize regular forums for monitoring teams to share experience and to promote common understanding;
- (n) To analyse carefully the number and nature of complaints received in assessing tenants' satisfaction level and PSA performance;
- (o) To review critically –
 - (i) the weighting of EMAC assessment and ways for counter-checking and moderating members' extreme scores; and
 - (ii) the methodology for the tenant surveys to cover tenants' satisfaction level for **each PSA** and in **each estate**;
- (p) To devise effective measures to deal with non-performing PSAs and to carry out such measures decisively whenever necessary.

Present Position

36. HD generally agrees with our conclusions and recommendations. It has already started to implement some of them.

37. The Ombudsman appreciates HD's positive response.

**Office of The Ombudsman
September 2005**