GUIDE TO COMAC OPERATIONS

Office of the Commissioner for Administrative Complaints

August 1996
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1. **INTRODUCTION**

1.1 An ombudsman nowadays has a number of roles to perform, including one or more of the following -

- Redressing individual grievances against maladministration in the public sector.
- Making bureaucracy more human.
- Lessening the gap between the Government and the public.
- Preventing abuses by acting as a bureaucratic watchdog.
- Righting individual wrongs.
- Indicating the facts when public servants are unjustly accused.
- Facilitating administrative reforms in the public sector.

1.2 The development of an ombudsman system in Hong Kong is compatible with the growth in the size and complexity of our public administration and its increased involvement in and impact on the daily life of individual citizens. These inevitably result in more interactions and sometimes disputes between the public administration and the community it serves.

1.3 Although the basic rights of the citizens are recognized by law, it is inevitable that in many situations and circumstances, not every individual who feels aggrieved by the actions, inactions or decisions of the public administration could, would or should approach a court of law for redress because of the time and cost involved.

1.4 The ombudsman system in Hong Kong was set up in Hong Kong in 1989 under the Commissioner for Administrative Complaints (COMAC) Ordinance (Cap. 397).
1.5 Under our COMAC system, COMAC provides a free and independent channel of redressing citizens’ complaints against the public administration. However, it is not the office of last resort nor is it set up to replace existing channels of complaints. It is up to the individual citizen to choose his channel.

1.6 The purpose of this Guide is to provide to the readers an understanding of the philosophy, legal provision and policies of the ombudsman system set up in Hong Kong under the COMAC Ordinance. In details, it explains the powers, jurisdictions and functions of COMAC and outlines the investigation procedures adopted by COMAC within the confines of the COMAC Ordinance.

1.7 Enquiries concerning the contents of this Guide are welcome. Please contact -

Office of the Commissioner for Administrative Complaints

31/F Gateway Tower I
25 Canton Road
Tsim Sha Tsui
Kowloon

(Tel. 2629 0565)

(Fax 2956 3298)
2. **Who is COMAC and What is COMAC's Philosophy?**

2.1 COMAC is an independent person appointed by the Governor of Hong Kong under the COMAC Ordinance. He is not a civil servant and neither his office a government department.

2.2 COMAC and most ombudsmen are not running a court of law. Whilst they will have to state their opinion at the end of an investigation, in so doing COMAC does not necessarily have to be bound by any provisions in the law.

2.3 Like that of his counterpart ombudsmen, COMAC’s work is characterized by two important features - independence of operation and credibility of performance. His philosophy is enshrined in his *Vision, Mission and Values* -

*Vision* - COMAC, through independent, objective and impartial investigations, initiated upon receipt of complaints or by his own volition, is instrumental in the furtherance of efficiency and fairness in the public administration, and helps in developing a public service culture characterized by dedication, commitment, accountability, openness, professionalism, quality service and performance and hence plays a role in ensuring the continued stability and prosperity of Hong Kong.

*Mission* - To serve the community of Hong Kong by redressing grievances and addressing issues arising from maladministration in the public sector, and through independent objective and impartial investigations, to bring about improvements in the quality and standard of and promote fairness in the public administration.
Values -

- Maintain impartiality and objectivity in our investigations
- Make ourselves accessible and accountable to the public and the organizations under our jurisdiction
- Uphold professionalism in the performance of our functions
- Accord the public and organizations with courtesy and respect
- Dedicate to our Mission and Vision
3. **WHAT IS MALADMINISTRATION?**

3.1 Under Section 2 of the COMAC Ordinance, maladministration means inefficient, bad or improper administration and, without derogation from the generality of the foregoing includes -

(a) unreasonable conduct, including delay, discourtesy and lack of consideration for a person affected by any action;

(b) abuse of any power (including any discretionary power) or authority including any action which -

(i) is unreasonable, unjust, oppressive or improperly discriminatory or which is in accordance with a practice which is or may be unreasonable, unjust, oppressive or improperly discriminatory; or

(ii) was based wholly or partly on a mistake of law or fact; or

(c) unreasonable, unjust, oppressive or improperly discriminatory procedures.

3.2 Under (a) and (b) in para. 3.1, *action* includes omission, recommendation or decision.

3.3 The more common nature of complaints of maladministration include abuse of power, selective enforcement, disparity in treatment, unfairness, negligence, omission, delay, error, wrong decision, rudeness, faulty procedures, failure to follow procedures, ineffective control, lack of response to complaints, etc.
4. **WHAT ARE COMAC’S ROLES, FUNCTIONS AND POWERS?**

4.1 COMAC’s roles and functions under the COMAC Ordinance are largely the same as those of most ombudsmen counterparts in other parts of the world.

4.2 Under the COMAC Ordinance, COMAC investigates matters of maladministration by government departments (except the Police and the Independent Commission Against Corruption) and organizations listed in Schedule 1 of the Ordinance (Annex A) either upon a complaint lodged to him by any person or body corporate or on his own volition if it is, in his opinion that any person may have sustained injustice in consequence of maladministration in connection with that action.

4.3 COMAC also investigates complaints lodged by any person who believes that a government department has failed to adhere to any provision of the Government’s administrative Code on Access to Information. Such information complaints are dealt with in the same manner as other administrative complaints in accordance with the provisions of the COMAC Ordinance.

4.4 COMAC shall exercise his powers conferred on him under the provisions of the COMAC Ordinance but his powers may be so exercised notwithstanding that any provision in any law to the effect that any decision shall be final, or that no appeal shall lie in respect thereof, or that no proceeding or decision of the organization whose decision it is shall be challenged, reviewed, quashed, or called in question.

4.5 COMAC may investigate a complaint in a manner he thinks fit. In determining whether to undertake, continue or discontinue an investigation, he shall, subject to the provisions of the COMAC Ordinance, act in accordance with his own discretion; and questions as to whether a complaint is duly made under the COMAC Ordinance shall be determined by him.
4.6 COMAC has the powers to call for information or documents from any person, summon witness and require the person to take oath for the purposes of an examination of the information/documents submitted.

4.7 COMAC may at any time enter, inspect and carry out an investigation in any premises managed by an organization.

4.8 Investigation will not be conducted by COMAC on the following -

(a) organizations that fall outside the jurisdiction of COMAC, i.e. organizations not listed in Schedule 1 of the COMAC Ordinance at Annex A;

(b) actions that are listed in Schedule 2 of the COMAC Ordinance at Annex B;

(c) actions which a complainant has had actual knowledge for more than 24 months (unless COMAC is satisfied that in the particular circumstances it is proper to conduct an investigation);

(d) where the complaint is made on behalf of a body corporate, if COMAC is not satisfied that the body corporate authorized the making of the complaint;

(e) where an appeal or objection can be made to the Governor in Council, or any tribunal or board; or where there is a remedy through the courts other than by way of a judicial review (unless COMAC is satisfied that in the circumstances it is not reasonable to expect the complainant to resort to that right or remedy);

(f) where a similar complaint has been investigated and no maladministration has been found; and

(g) complaints that are trivial, frivolous, vexatious or made in bad faith.
5. **WHO CAN COMPLAIN TO COMAC AND HOW?**

5.1 The COMAC Ordinance provides that any person or a body corporate may lodge a complaint to COMAC if he thinks he has sustained injustice in consequence of maladministration in connection with any action, inaction, decision or recommendation taken by or on behalf of an organization listed in Schedule 1 of the COMAC Ordinance in the exercise of its administrative functions. However, the person or the body corporate making the complaint must be the party aggrieved.

5.2 Investigation into a complaint will not be conducted if the complaint is made anonymously or the complainant cannot be identified or traced.

5.3 If the complainant has died or for whatever reasons cannot act for himself, the complaint can be lodged by his personal representative or by a member of his family or other individual suitable to represent him.

5.4 A complaint should be lodged in writing and signed by the complainant. It may be made by using the standard post-free complaint form (Annex C) provided free of charge by this Office or just in the form of a letter. In both instances, the identity, contact address and telephone, and signature of the complainant are required.

5.5 In the event that a complainant has difficulties in making a written submission, COMAC’s staff would render assistance. The complainant should visit COMAC’s Office in person and request for interview and assistance by an investigator.
6. **CAN A COMPLAINT LODGED TO COMAC BE WITHDRAWN?**

6.1 Yes, the complainant can withdraw his complaint at any time in writing but the decision whether to continue with the investigation rests with COMAC under Section 11 of the COMAC Ordinance.

6.2 Withdrawal by the complainant may not necessarily stop the investigation. COMAC may consider it in the interest of the complainee organization to have the matter thoroughly investigated to clear itself of the allegation(s) of maladministration or the continuation of the investigation may bring about an improvement in service rendered to the public. COMAC will then make a considered decision before exercising his discretion.

6.3 After the complainant’s withdrawal of the complaint, communication by COMAC with the complainant will cease irrespective of whether the investigation will continue as eventually decided by COMAC.
7. WILL CONFIDENTIALITY OF A COMPLAINT BE MAINTAINED?

7.1 COMAC and his staff are required under Section 15 of the COMAC Ordinance to maintain secrecy in respect of all matters that come to their actual knowledge in the exercise of their functions.

7.2 The exceptions to which the requirement of confidence does not apply are -

(a) disclosing in the course of proceedings for an offence under the COMAC Ordinance, any matter relevant to those proceedings;

(b) reporting evidence of any crime to the relevant authority; and

(c) disclosing to a person relevant materials which may be ground for a complaint by that person.

7.3 The identity of the complainant will be revealed to the complainee organization for the purpose of facilitating the investigation. This is essential in most cases because without such information, an investigation cannot proceed.

7.4 The investigation report of a complaint will only be released to the complainant and the complainee organization.

7.5 If COMAC is of the opinion that it is in the public interest, he may publish an investigation report in such manner as he thinks fit, without disclosing the identity of the complainant, any person aggrieved or involved in the investigation.
8. **THE SCREENING PROCESS**

8.1 Every complainant is entitled to the right of stating to COMAC his grievances. Regardless of whether the complaint is investigable, every endeavour will be made to help resolve it where possible. No complainant shall be turned away without an explanation.

8.2 COMAC's general attitude towards complainants is open, positive, sympathetic, helpful and understanding.

8.3 Upon receipt of a complaint against an organization subject to the COMAC Ordinance or the Code on Access to Information, the complaint will be registered and acknowledged. A file will then be opened for preliminary vetting or screening.

8.4 All complaints are of equal importance to COMAC. However, his resources are not unlimited. Screening is the first step in the process of handling a complaint. It aims to gather additional facts, information and clarification from the complainant to enable COMAC to fully understand the complaint. The same applies to the complainee organization so as to eventually enable COMAC in deciding whether the complaint is actionable and whether an investigation into the complaint should be undertaken.

8.5 Having regard to the particular circumstances of the case, site visits might have to be conducted and informal enquiries made with the organization concerned in the course of the screening process to try to gain a clearer understanding of the issue raised by the complainant to enable COMAC to decide whether or not there is a valid ground for investigation. Such information sought may include the complainee organization's understanding of the background information of the case, the facts and other information, the sequence of events and the initial comments on the case.

8.6 An assessment will be submitted at the end of the screening process to COMAC who will decide whether -
(a) the complaint should be screened out owing to specific actions not subject to investigation or restrictions stipulated under the COMAC Ordinance, if it is outside jurisdiction or it can be concluded after initial examination;

(b) the complaint can be referred to the complainee organization for investigation and reply with consent of the complainant under the Internal Complaint Handling (INCH) Programme (see Section 9);

(c) further clarification needs to be sought from the complainant to enable COMAC to decide whether or not there is a valid ground for investigation; or

(d) the complaint should be screened in for investigation in depth.

8.7 The time required to complete the screening process will depend on a number of factors, including the availability and completeness of the facts and information, complexity of the case, etc.
9. **THE INTERNAL COMPLAINT HANDLING (INCH) PROGRAMME**

9.1 COMAC is not an office of last resort nor is it intended to replace existing avenues for complaints. Referring complaints to complainee organizations under the INCH Programme is in line with the general principle for an ombudsman office to strive for a resolution of a problem or recommend administrative improvements and not necessarily a finding of right or wrong.

9.2 The Programme also allows COMAC more flexibility in the deployment of resources in tackling investigation of complaints that are complicated, incapable of informal resolution and of wide implications.

9.3 As the public sector is moving towards a customer and task-oriented culture, organizations should view every complaint as an opportunity to reflect on the service environment and make improvements and adjustments where due. Ignoring or denying a complaint will only generate hard feelings and complicate the matter. After all it is unrealistic to expect any organization to be error-free.

9.4 In fulfilling Government's commitment to be more open and accountable, and for good customer relations purpose, organizations concerned should acknowledge and account for complaints made, clarify the relevant policy and situation, remedy the matters and extend an apology where due.

9.5 In deciding whether to refer an investigate complaint to the complainee organization for consideration in the first instance, COMAC will give due regard to the following considerations -

- It is the express wish of the complainant to simply have his/her personal problem resolved and he/she consents to referral.

- The complainant has not yet approached the complainee organization to try to resolve the problem.
• The nature of the complaint does not merit a formal investigation and it appears capable of speedy and informal resolution through internal procedures.

• The complaint does not appear to involve points of principle, gross injustice, serious maladministration, systemic flaws or procedural deficiencies.

9.6 When a complaint is referred to the complainee organization for its investigation under the INCH Programme, the complainant’s letter will be copied to the organization together with a suggested time frame for giving the complainant a reply.

9.7 As a matter of good practice, replies should be written in simple language for the benefit of complainants as many of them may not fully understand how the public sector functions or what the law provides. Depending on individual circumstances and merits of a complaint, COMAC expects the reply to include the following contents as appropriate -

• Circumstances giving rise to the complaint.

• The investigation of the complaint and the outcome as measured against the established policy, operational guidelines/procedures and performance pledges/targets.

• If the complaint is justified and complainant has sustained injustice, say so.

• Reasons for upholding a decision or a change of decision should be given.

• Action taken or to be taken to remedy the situation or problem where due.

• Improvement measures planned with time-frame for implementation.
• Apologies in deserving cases.

• Name and telephone number of officer to contact if further clarification is necessary.

9.8 COMAC has a responsibility to ensure that all complaints referred to the complainee organizations are appropriately and fairly dealt with. Upon completion of internal investigation by complainee organizations and having regard to replies to complainants, COMAC may decide to seek further clarification, make suggestions or conclude the case as appropriate.

9.9 On the other hand, COMAC having considered the additional or new facts brought to light, the gravity of the complaint and any mitigating factors, he may decide to conduct a formal investigation in the public interest to prevent recurrences of similar complaints and/or improve the standard of public administration. COMAC may also consider investigating into the complaint if the complainant remains dissatisfied and has a valid ground of complaint.
10. **THE INVESTIGATION PROCESS**

10.1 COMAC is advocate neither for the complainant nor for the complainee organization concerned. He conducts independent and impartial investigations in a non-adversarial manner.

10.2 When COMAC has decided that the complaint should be screened in for investigation, it will be allocated to an investigation team and an Investigation Officer (IO) will be assigned to handle the complaint. If the complainee organization wishes to clarify any points in the course of the investigation, the IO is the appropriate person to approach in the first instance.

10.3 Before the commencement of investigation, the head of the complainee organization concerned will be informed of COMAC's intention to investigate a complaint under Section 12 of the COMAC Ordinance.

10.4 A Statement of Complaint containing the gist of the background information provided by the complainant and his complaint point(s) is then forwarded to the complainee organization together with questions relating to the complaint posed by COMAC. In some cases, it might also be necessary to copy the complainant's letter to the complainee organization if it is considered by COMAC to be more appropriate in the circumstances.

10.5 It should be noted that at this stage, COMAC has formed no view as to the merits of the complaint and merely conveys the complaint as expressed by the complainant to the complainee organization.

10.6 Apart from asking the complainee organization to provide answers to the questions posed, COMAC will also request the provision of all the relevant documents and files to assist in his investigation under Section 12(3) of the COMAC Ordinance. It should be noted that, in order to ensure a fair and thorough investigation can be conducted, the complainee organization may be asked to provide additional information as the investigation proceeds.
10.7 In forwarding a reply to COMAC, the complainee organization is expected to provide a comprehensive answer to all the questions posed within the time period specified.

10.8 Generally, the questions posed may include the following information -

(a) a statement of the background to the complaint;

(b) a sequence of events relevant to the complaint points;

(c) details of the policies, procedures, etc. relevant to the complaint subject matter;

(d) the name, post title, contact telephone number, etc. of the officers involved in the complaint;

(e) statements from the officers involved;

(f) comments on the complaint point(s);

(g) any other relevant information, observations, comment relevant to the complaint; and

(h) remedial actions the complainee organization will take to avoid recurrence of similar incidents in the future and the remedies, if any, available to the complainant if it considers that there are deficiencies, omissions or other inadequacies in its handling of the case.

10.9 In answering all these questions, the complainee organization is in fact revisiting the events/issues of the case under the complaint. This will give the organization the chance of doing its own investigation and then providing COMAC, in answering his questions, its result and conclusion as to the complaint point(s) alleged by the complainant.
10.10 COMAC expects to receive reports from heads of organizations or his senior managerial staff. He believes that the head of an organization should take a personal interest in complaints received from him and take the opportunity to review the organization’s procedures and the events giving rise to the complaint and consider improvement measures/solution if it is deemed appropriate.

10.11 Generally, the reply to COMAC’s questions from the organization should not be written by the person most directly involved in the act or omission of the subject matter of the complaint. While that person should be given an opportunity to comment on the complaint and those comments should be made available to COMAC, the reply should be prepared by someone who is of sufficient seniority and in a position to take an authoritative overview of the circumstances of the complaint.

10.12 The IO will make such enquiries of the parties concerned, including third parties where appropriate, as are necessary to establish the relevant facts of the complaint. Under Section 13 of the COMAC Ordinance, COMAC may summon any person to provide information and to produce any document or thing in his custody relating to any action that is being investigated. He may also require the person to take an oath for the purposes of an examination.

10.13 Site visits will be conducted where necessary.

10.14 Every investigation shall be conducted in private and counsel and solicitors shall not have any right of attendance before COMAC, unless he thinks fit. It is not necessary for COMAC to hold any hearing for the purpose of the investigation.

10.15 COMAC is empowered to enter into any premises managed by the organization for the purpose of inspection and the conducting of an investigation.

10.16 An investigation shall not affect any action taken by the head of the organization affected, or his power or duty to take further action with respect to any decision which is the subject of an investigation. For instance, a complainant complains to COMAC regarding the
Water Authority’s excessive water bill. However, while COMAC is investigating into this complaint, the complainant has to comply with the Water Authority’s legal demand for payment and the investigation process cannot stop any actions taken by the Water Authority under the Waterworks Ordinance.

10.17 After concluding the investigation and if COMAC considers that some remedies should be given to the complainant or some improvements should be made to enhance the service of the organization, he would make such recommendations.
11. **How does COMAC handle professional and technical issues arising from the investigation?**

11.1 Three panels of advisers have been formed viz. Panel of Legal Advisers, Panel of Medical Advisers and Panel of Engineering Advisers, to provide assistance to COMAC where circumstances so warrant. The advisers are either academics or professionals with high standing in their respective fields.

11.2 The advisers serve COMAC on an honorary basis. When they offer their advice, they are deemed to be staff of the COMAC’s Office for the purpose of the COMAC Ordinance and they have to observe some guidelines such as the secrecy provision and conflict of interest.

11.3 The advice offered to COMAC by the adviser is provided on a personal basis and is without any commitment on the part of the adviser. COMAC considers the advice so given and draws his own independent conclusion after weighing all the facts and the advice at the end of the investigation.
12. **What Happens Towards the End of an Investigation?**

12.1 COMAC will produce a draft investigation report incorporating the background to the complaint, complaint point(s), observations, findings, conclusion and recommendations, known as Draft Results Report (DRR) under Section 16 of the COMAC Ordinance, and send to the complainee organization for comment as to the accuracy of the facts and figures, the indication of the time frame for implementation of the recommendation(s), if any, and the reasons if the recommendation(s) cannot be implemented. For non-disclosure of information in the report, a certificate from the Governor to this effect will be required under Section 15(3) of the COMAC Ordinance.

12.2 Normally three weeks are given to the organization to comment on the DRR. In addition, the organization is also asked if it wishes to call a meeting to discuss the DRR before it replies in writing before the deadline.

12.3 In accordance with Section 12(6) of the COMAC Ordinance, if at any time during the course of an investigation it appears to COMAC that there may be sufficient grounds for him to make any report or recommendation that may criticize or adversely affect any officer, organization or person, he shall give the officer, head of the organization or person an opportunity to be heard. In the case of an individual officer being criticized, he will be given a copy of the DRR at the same time as the copy is issued to the organization and asked to make his representation, if any.

12.4 After comments are received from the organization, a Final Results Report (FRR) will be prepared and the organization’s comments on the conclusions in the DRR will be reflected in the FRR as appropriate. On the rare occasions where disagreement remains with the organization on the DRR, COMAC’s practice is to record the disagreement and set out his views in the final remarks in the FRR.
12.5 A copy of the finalized FRR will be sent each to the organization and the complainant in accordance with Section 17 of the COMAC Ordinance.

12.6 A flow chart on COMAC's investigation procedure is in Annex D.

12.7 A glossary of the terms used in investigations is in Annex E.
13. **WHAT FOLLOW UP ACTION COMAC WILL TAKE AFTER ISSUE OF THE FINAL RESULTS REPORT?**

13.1 Recommendations are made by COMAC when the investigation reveals areas requiring rectification or improvement. The recommendations made must be sound, practical and implementable by the organizations. It is therefore important to require the organizations to keep COMAC informed on how and when the recommendations are fully implemented.

13.2 As a follow up on the FRR, COMAC would request the head of organization concerned to let him know within a stipulated period of time or a reasonable period of time what action has been taken to implement the recommendation(s) in the FRR.

13.3 If it is in the opinion of COMAC that the FRR has not been adequately acted upon, he would ask for an explanation from the head of the organization concerned and submit the FRR and the comments of the organization concerned, together with such further observations as he thinks fit to make, to the Governor under Section 16(3) and (4) of the COMAC Ordinance.

13.4 In addition, he may where he is of the opinion that a serious irregularity or injustice has taken place, make a further report stating his opinion and his reasons to the Governor who within one month or such longer time as the Governor may determine, lay a copy of the report before the Legislative Council in accordance with Section 16(6) of the COMAC Ordinance.

13.5 COMAC will only close a complaint file after the matter has been brought to a satisfactory conclusion.

13.6 If a complainant is not satisfied with the result of COMAC’s investigation, he can submit his reasons together with any evidence he might have to substantiate his claims. However, COMAC will not re-open the investigation unless and until he is satisfied that the new evidence submitted will negate his earlier findings and
conclusion. Organizations might be asked to provide further information and comment to verify the new evidence submitted.

13.7 The Administration has taken a serious view on the implementation of COMAC's recommendations. Following submission of COMAC's Annual Report, the Administration will table a Government Minute in the Legislative Council to inform the Members and the public what follow-up actions have been taken by the government departments and, where appropriate, statutory bodies concerned on COMAC's recommendations.
14. **DIRECT INVESTIGATIONS**

14.1 Under Section 7(1)(b) of the ordinance, COMAC is empowered to take a more proactive approach in handling problems of potentially wide public interest and concern by conducting self-initiated direct investigations. The guidelines of initiating such investigations can be found in Annex F.

14.2 Conducting direct investigation is often lengthy and time-consuming due to the complexity of the problems involved. However, COMAC remains convinced that the time and efforts so spent are well justified as prevention is always better than cure. One direct investigation will benefit not just one person but many and will also help prevent recurrence of repeated complaints, and as such COMAC is in fact spending time to save time.

14.3 Other than without a complaint, the procedures for conducting direct investigations, issue of DRR/FRR, etc. are basically the same as those for the complaint-led investigations.
15. APPROACHES TO SCREENING AND INVESTIGATION

15.1 COMAC approaches the complaints with a questioning mind. There is no reason to be over-critical. On the other hand, long-established systems and procedures would not be taken for granted. The means test should be whether the action, inaction, recommendation or decision being complained against is reasonable, acceptable and convincing from an ordinary person's point of view.

15.2 Neutrality and objectivity are the keys to effective investigation. Except for points already verified, or information supported by proof, COMAC's findings and conclusions must be based on an objective analysis of the situation, without accepting or echoing the statements by either party.

15.3 As an independent, impartial and non-partisan channel for redress of public grievances, COMAC will not take side with either the complainant or the complainee organization, particularly when it is one party's words against the others.

15.4 Evidence submitted by both parties will be carefully, objectively and fairly examined by COMAC.

15.5 COMAC's investigations are non-adversarial in nature and they are conducted in private. He is not an advocate for either the complainant or the complainee organization. COMAC has no enforcement power but he has powers to make recommendations to bring about improvement and for remedial/corrective measures.

15.6 COMAC is not a court of law. Conclusion of an investigation is drawn from facts and findings established through thorough and careful investigations. The test is one of reasonableness having regard to "maladministration" as defined in Section 2 of the COMAC Ordinance.
15.7 COMAC adopts a firm and clear stand in carrying out his work. This applies to both the complainee organizations and complainants. A firm stand would always be taken on jurisdictional issues and how COMAC conducts his work. Findings and conclusions of investigations would not be changed simply upon request or non-acceptance; they can only be changed based on facts uncovered.
16. **HOW ARE ANONYMOUS COMPLAINTS HANDLED?**

16.1 Potential complaints comprise of two broad categories, namely those complaints lodged directly by complainants to complainee organizations and copied to COMAC, and anonymous complaints which contain no traceable identity of or means of contact with the complainant.

16.2 Although potential complaints are regarded as inactionable complaints for which no immediate screening or investigating action is normally required, their significance cannot be overlooked. Many of them are indicative of some of the serious concerns of members of the public towards the complainee organization. The issues raised will therefore be carefully considered and site visit conducted where necessary, and one of the following courses of action will be taken, depending on the nature, seriousness and implications of the complaints lodged.

- Refer to the complainee organization for any follow-up actions deemed necessary by it (e.g. where the subject matters raised are clearly outside COMAC’s jurisdiction, such as internal personnel disputes);

- Refer to the complainee organization for comments or follow-up actions and request for keeping COMAC informed of the progress and conclusion of the complaint (e.g. where issues of maladministration have been discerned); and

- No further action would be taken (e.g. the subject matter appears to be fabricated, or inadequate details provided for follow-up purposes).

16.3 In cases where the complaints involve serious issues of maladministration, the subject matter might have to be separately monitored as a possible target for direct investigation by COMAC even though the individual complaint cannot be pursued.
17. **COMPLAINTS REFERRED TO COMAC**

17.1 Under Section 10 of the COMAC Ordinance, a complaint has to be made by the individual aggrieved personally. It should be noted that the COMAC system is intended for members of the public to air their individual grievances directly to an independent authority and for such grievances to be redressed outside the judicial system or other appeal channels.

17.2 COMAC is unable to entertain complaints lodged by members of the legal profession, District Board members, voluntary workers, etc. on behalf of other persons or their clients unless the aggrieved parties are ready to come forward themselves.

17.3 If a complaint is signed by the aggrieved party and it is simply referred to COMAC by another person, COMAC will take up the complaint but will communicate directly only with the aggrieved party.
18. **How COMAC Handles Matters Outside His Jurisdiction?**

18.1 This Office sometimes receives complaints about civil service personnel matters, actions of private firms, actions of the police and organizations outside his jurisdiction, actions not subject to his investigations, and opinions expressed on matters affecting the public generally.

18.2 In declining investigation into such matters, COMAC would provide, where appropriate, the complainants with as much information as possible about the available avenues for them to further pursue their complaints or offer referrals where necessary.

18.3 There is also a general misconception that COMAC is vested with the power to stop a course of action taken by the organization against which a complaint has been lodged to this Office. Under Section 19 of the COMAC Ordinance, it is stipulated that an investigation shall not affect any action taken by the head of the organization, or his power or duty to take further action with respect to any decision which is the subject matter of an investigation.

18.4 COMAC, however, would not hesitate to make recommendations for effecting appropriate remedies to the complainants or making suggestions for administrative improvements where appropriate.
19. **COMAC’s Relationship with the Organizations**

19.1 COMAC conducts impartial and independent investigations and he is an advocate for neither the complainant nor the complainee organization. He aims to maintain cooperative, trusting, respectful working relationship with the organizations included in Schedule 1 of the COMAC Ordinance, and he expects full support and cooperation from them with an honest, open, serious and non-defensive stance.

19.2 COMAC would like the organizations to share his view that complaints, if perceived in the proper perspective, could be a very effective management tool. They would also serve as a barometer to measure against public reaction to the organizations’ current policies and procedures, reveal possible failures within existing systems and bring about solutions to problems which might otherwise take much longer time to surface.

19.3 COMAC wins the cooperation, trust and respect of the organizations, and from the community at large, through his impartial, independent and quality work.

19.4 Upon receipt of a complaint or when a direct investigation is being considered, COMAC would need to contact the organization for information, clarification, comment, etc. It is obvious that unless COMAC is accorded with proper and full co-operation by the organization (and the complainant) for the supply of the required information, clarification, comment, etc., it will be impossible for an investigation to be conducted in an impartial, independent and objective manner.

19.5 It should also be noted that COMAC’s request for information, etc. from organizations is entirely for the purpose of investigating a complaint. He is not consulting the organizations. He will guard against any influence, due or undue, that organizations might exert in the investigation process.
19.6 Delays in investigating the complaint or resolving the complainant’s grievance might eventually damage any cordial relationship already established between the organization and members of the public which it pledges to serve.

19.7 When COMAC requests information, etc. from an organization, a deadline for reply is always given. This usually ranges from two to four weeks, depending on the complexity of the matters.

19.8 Upon receipt of the request, if the organizations consider that there are valid and practical reasons for not being able to respond before the deadline, they should inform COMAC at the earliest possible opportunity and before the deadline.

19.9 In the case of comments to a DRR, COMAC would also set a date before which the organizations should contact COMAC if they wish to have a meeting to discuss the report before they reply in writing. In the absence of a reply being received upon expiry of the deadline, COMAC will assume that the organization has no comment on the report and is ready to implement any recommendation(s) made therein. He will proceed to finalise the FRR without further communication with the organization.
20. **REPLIES TO COMPLAINTS AND LANGUAGE POLICY**

20.1 Complainants’ anxiety in having an early resolution of the problem is fully understood and acknowledged. Their wishes to be kept informed of progress and development should be seen as legitimate expectations and not unreasonable demands. This applies especially when the investigation process has to be lengthened because of the complexity of the problem under investigation.

20.2 COMAC’s replies to complaints would be written in simple language and as personal as possible, showing understanding and concern whether or not the problem is actionable by him.

20.3 COMAC has long started to implement a language policy of replying to complaints in their choice of language. In practice, if a complainant writes to COMAC in Chinese, he will receive our reply, including the investigation report if his complaint is investigated, in Chinese.
21. POLICY AND ADMINISTRATION

21.1 COMAC will not investigate a complaint solely on the merits of a policy. However, on the broader issue of whether COMAC can and should investigate into complaints concerning policy matters, it should be noted that:

- Section 2 of the COMAC Ordinance gives a definition of maladministration and Section 7 empowers COMAC to investigate into administrative functions. However, the law has not provided a definition of policy nor a distinction between policy and administration.

- COMAC takes a broad interpretation of the term "administration" and is prepared to investigate into every activity or executive action of the government departments and organizations under Schedule 1 of the COMAC Ordinance, save any legislative or judicial actions.

- The dividing line between what is involved in policy and what is involved in administration is not obvious and needs to be determined by the circumstances of each case. Under Section 9 of the COMAC Ordinance, COMAC determines whether a complaint is duly lodged under the ordinance though the ultimate authority for interpreting the law is vested in the court.

- COMAC does not normally look into the merits of a policy, but is prepared to examine the processes and facts leading to a policy and its implementation. Very often it is not possible for COMAC to decide if an action is with or without maladministration until it has been fully investigated.

- COMAC will approach the investigations and recommendations from the standpoint of whether the departments or organizations have acted fairly, reasonably, suitably and timely in the eyes of an ordinary citizen notwithstanding any provision in law or policy.
• A thorough investigation into the fundamentals of the problem must therefore take into account a variety of factors including the relevant facts, value judgement, law and policy.

• COMAC will not recommend reversal of a policy or propose an entirely different policy. This would be inconsistent with the normal functions of most ombudsmen in that their subjective opinions should only serve as a catalyst for the public administration to review the basis of a policy and should not directly ask to reshape the pith and substance of any policy.

21.2 The question of where to draw a line between policy and administration will likely continue to be argued long and hard. Different countries will no doubt draw the line at different points. However, an ombudsman's view would not usurp lawful policy and policy-making by the public administration. Whilst it is conceded that there can be some ambiguities about where policy ends and where administrative acts begin, this definitional problem should not affect the basic principle espoused in para. 21.1. Whether it is a matter of policy or an administrative act remains for determination in each case.
22. **PROFESSIONAL JUDGEMENT AND DECISION**

22.1 Many decisions would no doubt involve professional skill, judgement and experience but the law has not drawn a distinction between administrative and professional actions. It will be difficult and inappropriate for an ombudsman to rule that an action (or inaction) does not fall within his jurisdiction simply by reason of the fact that it is the exercise (or non-exercise) of a professional decision or judgement without being supplied with detailed information of the action to enable him to take a view.

22.2 The definition of "maladministration" covers abuse of power or authority which is unreasonable, unjust or oppressive, or which is based wholly or partly on a mistake of law or fact. It is quite possible that a professional, in reaching a judgement or decision, would make a mistake of law or fact.

22.3 It is inappropriate to exclude a particular category of judgement or decision merely by reference to the relationship between the decision-maker and the person affected by the decision (for instance by assuming that all actions taken by a doctor on a patient are professional judgements or decisions).

22.4 No doubt many decisions made by a professional involve professional judgement, but very often it will not be possible to determine if a decision is taken with or without maladministration until all the concerned actions and facts have been fully investigated.
23. **Seeking of Legal Advice**

23.1 COMAC will not dispute any genuine need for organizations in seeking legal advice in order to ascertain their legal position, rights and obligations. However, COMAC is not bound to accept the legal advice from any legal counsel. Neither can he accept the view that an organization has acted properly on legal advice unless he first sees that full text of the advice and the complete brief seeking it.

23.2 COMAC would not like to see situations in which organizations are seeking legal advice solely for one or more of the following purposes -

(a) delaying COMAC’s investigation of a complaint;

(b) attempting to refuse, narrow down or restrict COMAC’s jurisdiction and power in investigating the complaint;

(c) using legal opinions/jargons to the exclusion of considerations of reasonableness, ethics, values and accepted standards; and

(d) avoiding or shifting the focus of the complaint or quoting the advice selectively and not related to the theme of COMAC’s investigation.
24. **ADMINISTRATIVE FAIRNESS CHECKLIST**

24.1 Administrative fairness is an important quality the COMAC Office looks for in examining grievances arising from maladministration. One basic question often asked is whether the policy or procedure of an organization is fair and reasonable.

24.2 COMAC has developed an Administrative Fairness Checklist (Annex G) so as to provide a rational basis for agreeing on standards between the public authorities and this Office for fair, consistent and rational assessment of the public administration.

24.3 The Checklist is by no means exhaustive and should be adopted to fit individual circumstances of the department/organization. It should not be viewed in isolation, but within a broader context of the operation of the organization within their statutory authority and constraints and in furtherance of its missions.
List of Annexes

Annex

A. Schedule 1 of the COMAC Ordinance (Organizations to Which the Ordinance Applies)

B. Schedule 2 of the COMAC Ordinance (Actions Not Subject to Investigation)

C. Post-free Complaint Form

D. Flow Chart on Handling of Complaints

E. Glossary of Terms

F. Guidelines for Initiating Direct Investigations

G. Administrative Fairness Checklist
SCHEDULE 1 OF THE COMAC ORDINANCE
ORGANIZATIONS TO WHICH THE ORDINANCE APPLIES

Agriculture and Fisheries Department
Airport Authority
Architectural Services Department
Audit Department
Auxiliary Medical Services (department)
Buildings Department
Census and Statistics Department
Civil Aid Services (department)
Civil Aviation Department
Civil Engineering Department
Civil Service Training and Development Institute
Companies Registry
Correctional Services Department
Customs and Excise Department
Department of Health
Drainage Services Department
Education Department
Electrical and Mechanical Services Department
Environmental Protection Department
Fire Services Department
General Office of Government House
Government Flying Service
Government Laboratory
Government Land Transport Agency
Government Property Agency

Government Secretariat
Government Supplies Department
Highways Department
Home Affairs Department
Hong Kong Arts Development Council
Hong Kong Housing Authority
Hong Kong Housing Society
Hong Kong Monetary Authority
Hospital Authority
Hospital Services Department
Housing Department
Immigration Department
Industry Department
Information Services Department
Information Technology Services Department
Inland Revenue Department
Intellectual Property Department
All registries and administrative offices of courts and tribunals for which the Judiciary Administrator has responsibility
Kowloon-Canton Railway Corporation
Labour Department
Land Development Corporation
Land Registry
Lands Department
Legal Aid Department
Legal Department
Legislative Council Secretariat
Management Services Agency
Marine Department
Mass Transit Railway Corporation
Office of the Telecommunications Authority
Official Languages Agency
Official Receiver's Office
Planning Department
Post Office
Printing Department
Radio Television Hong Kong
Rating and Valuation Department
Regional Council
Regional Services Department
Registration and Electoral Office
Registry of Trade Unions
Royal Observatory

Secretariat of the Standing Commission on Civil Service Salaries and Conditions of Service
Secretariat of the Standing Committee on Disciplined Services Salaries and Conditions of Services
Securities and Futures Commission
Social Welfare Department
Technical Education and Industrial Training Department
Television and Entertainment Licensing Authority
Territory Development Department
Trade Department
Transport Department
Treasury
University Grants Committee, Secretariat
Urban Council
Urban Services Department
Vocational Training Council
Water Supplies Department
SCHEDULE 2 OF THE COMAC ORDINANCE

ACTIONS NOT SUBJECT TO INVESTIGATION

1. Any action taken in matters certified by the Governor as affecting security, defence or international relations (including relations with any international organization) in respect of Hong Kong.

2. The commencement or conduct of any proceedings, whether civil or criminal, before a court of law or tribunal in Hong Kong, including any decision whether or not to prosecute any person for an offence.

3. Any exercise of the prerogative of mercy.

4. Any action taken in relation to contractual or other commercial transactions but excluding procedures adopted in inviting tenders, determining the qualification of persons entitled to tender and the selection of the successful tenderer.

5. Any action taken in respect of appointments or removals, pay, conditions of service, discipline, pension, superannuation or other personnel matters, in relation to -
   
   (a) service in any office or employment under the Government or under any organization, or
   
   (b) service in any office, or under any contract for services, in respect of which power to take action, or to determine or approve the action to be taken, in such matters is vested in the Governor or any organization.

6. The grant of honours, awards or privileges within the gift of the Crown.

7. Any action taken personally by the Governor.

8. Any decision concerning the imposition or variation of any condition of granting, extending or renewing any interest in Crown land.

9. Any action taken in relation to the Hong Kong Codes on Takeovers and Mergers and Share Repurchases issued by the Securities and Futures Commission.
Confidential Registry
Office of the Commissioner for Administrative Complaints (Ombudsman)
31/F., Gateway Tower I
25 Canton Road, Tsim Sha Tsui
Kowloon

Complaint Form

(This Form can be completed either in English or Chinese. Please note the major legislative restrictions/limitations on investigation of complaints by this Office overleaf)

Name of Complainant: __________________________ (Mr/Mrs/Miss*) IC No.: __________________________

Telephone No.: Day-time Contact No.: __________________________ Home: __________________________

Correspondence Address: ________________________________________________________________

Organization under complaint: ____________________________________________________________

Details of Complaint: (Please provide supporting details/documents and relevant correspondence exchanged with organization concerned)

____________________________________________________________________________________

____________________________________________________________________________________

____________________________________________________________________________________

____________________________________________________________________________________

____________________________________________________________________________________

____________________________________________________________________________________

(Please use overleaf or additional paper, if necessary)

1. I consent/object* to referral of my complaint form/letter to the above complainee organization if it is considered appropriate by your Office.

2. Please list out the organization(s) with which you have lodged this complaint __________________________

Date: __________________________ Signature: __________________________

* Delete as appropriate
Details of complaint (Continued)

Major Restrictions/Limitations on Investigations under the Commissioner for Administrative Complaints Ordinance (Cap. 397)

1. Actions by the Police or the Independent Commission Against Corruption (ICAC) and departments/organizations not listed on Schedule 1 of the Ordinance.
2. Complaints about policy, personal matters or contractual/commercial transactions.
3. Complaints about the imposition or variation of any condition of granting, extending or renewing any interest in Crown land.
4. Actions which the complainant has had knowledge for more than 2 years.
5. Complaint not made by the individual aggrieved himself or body corporate.
6. Complainant not a party or a statutory right of appeal or objection or a remedy through the court.
7. The commencement or conduct of any proceedings before a court of law or tribunal, including any decision whether or not to prosecute any person for an offence.
8. Actions taken personally by the Governor.
9. Actions taken in relation to the Hong Kong Codes on Takeovers and Mergers and Share Repurchases.
10. Complaints that are trivial, frivolous, vexatious or made in bad faith.

Organizations under COMAC Ordinance Schedule 1

1. All Government departments except the Police and ICAC
2. Airport Authority
3. Hong Kong Arts Development Council
4. Hong Kong Housing Authority
5. Hong Kong Housing Society
6. Hong Kong Monetary Authority
7. Hospital Authority
8. Kowloon-Canton Railway Corporation
9. Land Development Corporation
10. Legislative Council Secretariat
11. Mass Transit Railway Corporation
12. Regional Council
13. Securities and Futures Commission
14. Urban Council
15. Vocational Training Council
Flow Chart on Handling of Complaints

Receipt of Complaints

- By Copy
- Referral
- Letter
- In Person
- Telephone

Commencement of Screening Process

Screened-out & Investigation Not Necessary

- Review Organization's Action
  - Satisfactory
    - Restriction on investigation
    - Outside jurisdiction
    - Notify Complainant
  - Unsatisfactory
    - Commencement of Investigation Process
      - Notify Complainant/Organization, collection of facts, information & evidence
      - Investigation
      - Issue Findings, Conclusions & Recommendations in a Draft Results Report
      - Seek comment from Organization
      - Issue Final Results Report to Complainant & Organization

Monitor progress & implementation of recommendations

Completion
Enquiry

An enquiry is a request for information or advice only. It is not a complaint.

Complaint

A complaint is a specific allegation against a department/organization, or any staff of the department/organization, for any wrong doing or defective decision/action which affects and aggrieves the complainant either personally as an individual, or collectively as a body corporate.

Complaint Investigated

This refers to a complaint which has been formally investigated in accordance with the Commissioner for Administrative Complaints (COMAC) Ordinance. Upon completion of the investigation, one of the following conclusions will be drawn in regard to the complaint.

- Substantiated, Partially Substantiated or Unsubstantiated

This refers to the degree which the action/inaction/recommendation/decision being complained against is found to be inefficient, bad or improper administration within the meaning of maladministration as defined in Section 2 of the COMAC Ordinance. If all aspects of the complaint taken together show that there is clearly and demonstrably maladministration, it would be concluded as substantiated. If maladministration is found in only one or some of the aspects, it would only be concluded as partially substantiated. If no maladministration is found, it would be concluded as unsubstantiated.

- Incapable of Determination

No conclusion of substantiating, partially substantiating or unsubstantiating the complaint can be drawn because all the information and evidence that can be gathered after investigation are still found to be conflicting, irreconcilable, incomplete or lacking in corroboration from independent witnesses.

-Withdrawn/Discontinued

This refers to complaints which have not been investigated further because it subsequently transpires that the matters are outside COMAC’s jurisdiction (e.g. commencement of legal proceedings), or there is no ground or basis for further investigation or the complainant wishes to withdraw his complaint voluntarily, or when the complainant cannot be contacted or traced after a reasonably long period of time or despite the issue of repeated reminders.
Under Section 7(1)(b) of the Commissioner for Administrative Complaints Ordinance, the Commissioner (COMAC) is empowered to initiate investigations on his own volition, even though no complaint on the matter has been received.

This power enables COMAC to be more proactive in his approach to problems of wide public interest and concern. However, the occasions necessitating the use of this power may not be frequent. It is particularly useful to -

(a) follow through related problems which investigation of the complaint alone may not be able to resolve;

(b) nip problems in the bud; and

(c) resolve repeated complaints, once and for all, by addressing the fundamental problems which may not be the subject of complaint, but are believed or suspected to be the underlying reasons for complaints.

In considering whether to use the power, the two guiding principles adopted by COMAC are -

(a) he will make his independent judgement and decision, free from any influence; and

(b) he will take into account the general public interest and concern in the matter.

To facilitate his consideration of matters for direct investigation, COMAC has established some general guidelines -

(a) the matter is one concerning public administration, in respect of which alleged or suspected maladministration as defined in the COMAC Ordinance is involved;

(b) the matter should be of sufficient dimension and complexity, representing the general interest, desire or expectation of the community, or at least a sector in the community;
Guidelines for Initiating Direct Investigations

(c) individual grievances will not normally be a candidate for direct investigation, as there is no reason why the individual concerned cannot come forward to lodge a complaint himself;

(d) the matter will not otherwise be actionable under the restrictions in Section 10(1) of the COMAC Ordinance, in relation to time-bar, the complainant not the individual aggrieved etc, which is nevertheless of grave concern to COMAC;

(e) the matter is one not normally subject to the jurisdiction of the court nor a tribunal constituted under any Ordinance, or in respect of which it would not be reasonable to expect the affected person(s) to resort to the court or any tribunal for remedy;

(f) whether time is opportune for the direct investigation, weighing against the consequences of not doing so; and

(g) would it duplicate or interfere with any independent action, examination or study undertaken for the same purpose?

It is emphasized that the above are no more than guidelines, and the list is by no means exhaustive. Much will depend on the actual matter and the problems emerged.
Serving the Public

1. **Access to Information**

   Unless provided to the contrary by law or the Code on Access to Information, is the public's right for access to Government information fully recognised and their requests for such information facilitated? If access is prohibited by law, is the public given an explanation and is that explanation written in plain language?

2. **Correspondence with the Public**

   Is correspondence from the public duly acknowledged, and an interim reply sent within a reasonable period pending a substantive reply? Is correspondence with the public written in a plain language, and in a format that is easily understandable?

3. **Enquiries**

   Is there sufficient information available, in the form of booklets, leaflets, or pamphlets to fill the public well with basic information that they may desire? Is the role of the department, its procedures, powers and jurisdiction adequately explained in such publications vis-à-vis the public's obligation, entitlements, benefits, eligibility criteria and other options available? What arrangements are available to people with special needs such as seniors, the illiterate, and the disabled?

4. **Forms**

   Is the purpose of each form clear? Do the questions asked conflict with the Bills of Right? Is the form written in plain language and easy to understand? Are individuals provided with copies of all forms and statements signed by them, if they do not have the opportunity to make copies themselves? Is it permissible for someone to assist a person in making out an application? If not, what assistance is available to help those who have genuine difficulties?

5. **Courtesy**

   Are all people treated with courtesy and respect? Do we admit our mistakes responsibly and frankly? Are apologies given where they are due?
Communication and Reception

6. **Telephone and Fax Communication**

Are numbers of calls and message returns monitored? Are there facilities for messages to be left and acted upon expeditiously? Are ringing telephones answered promptly? Are hotlines installed where necessary and sufficiently manned? Are the telephone and fax numbers well known to the public?

7. **Access and Reception**

Is the office easily accessible by the public? Are there facilities for disable access? Does the layout provide a safe and healthy work place? Are there sufficient reception arrangements which are customer-friendly and designed to respect the public's right to privacy?

Decision Making

8. **Opportunity to be Heard and to Respond**

Are the parties affected by a decision given an adequate opportunity to present information and evidence in support of their positions?

9. **Timeliness**

Are decisions made and actions taken within a reasonable period of time?

10. **Explanation Given**

Are the reasons for the decision, action or non-action fully explained to the public, and communicated in a way that is meaningful and easily understandable?

Public Grievances

11. **Objection Channels Available**

Are individuals informed of their right for an appeal, review and complaint, and the channels available, both internally and externally? Are these channels sufficiently publicised for general information? When this information is provided to individuals, is it done in a non-confrontational and respectful manner? Are these channels properly and adequately staffed?
Administrative Fairness Checklist

12. **Complaint Procedures**

   Are there realistic and clearly defined complaint procedures at all levels? Are there up-to-date performance pledges and customer liaison groups etc. which will facilitate public monitoring of standards of services and input for improvements?

Organization

13. **Nomenclature Used**

   Are the names of the divisions, sections, and units which made up the department sufficiently self-explanatory? Do the classifications of the department's components and the designations of individual officers reflect clearly and simply their main function performed? Are the use of abbreviations and jargons avoided in communication with the public?

14. **Re-organization**

   Is there any way to combine, separate or re-organise what the department does to achieve a higher quality of service delivery?

15. **Co-ordination**

   Would policy or procedural changes in working relationships with other organizations or departments bring about overall improvements in service quality and fairness to the public? What mechanisms are in place to encourage this kind of review and internal audit of practices? What has been done to develop an attitude that promotes continuous improvements?

Consultation, Review and Planning

16. **Consultation**

   Is there adequate consultation with affected individuals and groups all the way before programme initiatives are planned, developed, modified where necessary, and implemented? Is this consultation done in a meaningful and timely way? Is the way in which the final decision will be made clear from the outset to the affected persons?
17. **Performance Pledges**

Do they reflect realistically the standards achievable? Do they meet the public's expectation of the standards desired? Are there systems in place to constantly drive for improvements? Do they cover as much as possible of all the services of the department? Are their achievements reviewed and standards improved on a regular basis? Do we have Mission Statement for our staff so that they know what they are setting out to accomplish and how the organization's standard is to be judged?

18. **Review**

Are public grievances used as a barometer to measure the improvements necessary in the planning and review of programmes and policies? Is sufficient regard given to appeal, review and complaint data in finalising programmes and reviews with a view to redressing public grievances and addressing the concerns of the community?

**Concluding Remarks**

19. This Checklist is by no means exhaustive. It may be suitably adapted to meet the operational needs of a department or organization. Promoting fairness in the public administration is an established objective of the Office of COMAC. It is clearly stated in our Mission Statement. We believe that fairness should be demonstrated by -

(a) making decisions with impartiality and professional objectivity based on consistent and appropriate standards;

(b) demonstrating a commitment to justice, the equitable treatment of individuals and appreciation for diversity in all actions;

(c) exercising authority with open-mindedness and a willingness to seek out and consider all relevant information, including opposing perspectives;

(d) voluntarily correcting personal or organizational mistakes and improprieties and refusing to take unfair advantage of mistakes or ignorance of others; and

(e) scrupulously employing open, equitable and impartial processes for gathering and evaluating information necessary to decisions.

Office of the Commissioner for Administrative Complaints

May 1996
Hong Kong, Office of The Commissioner for Administrative Complaints.
Guide to COMAC operations

Date Due

TOC