

Independent Complaints Handling Committee (IHC)

Mechanism for Handling Complaints

Non-governmental organisations (NGOs), as service providers, should properly supervise and monitor the service performance of their subvented service units, and handle complaints in accordance with their established policies. Any person who is dissatisfied with the service performance of an NGO/service unit should first lodge his/her complaint directly with the NGO concerned. Under the prevailing Lump Sum Grant (LSG) subvention system, LSG-related complaints that cannot be satisfactorily addressed at the NGO level may be referred and handled by the Independent Complaints Handling Committee (IHC) which is composed of independent non-government individuals.

Secretariat for IHC (the Secretariat)

2. The staff of Social Welfare Department (SWD) is responsible for carrying out the work of IHC Secretariat. The Secretariat handles complaints in accordance with IHC's ambit and mechanisms, gathers the required information, and prepares reports for IHC's consideration and decision. The Secretariat will inform the complainants, NGOs concerned and SWD of IHC's decisions and recommendations for improvement, if any, in writing, to facilitate SWD in monitoring NGOs' service performance in accordance with established mechanisms, as appropriate.

Ambit of IHC

3. IHC handles LSG-related complaints that cannot be satisfactorily addressed at the NGO level, including (i) NGOs' misuses of LSG subventions; (ii) decisions made by NGOs' management that have a direct impact on their service performance or the interests of stakeholders; and (iii) NGOs' non-compliance with service requirements.

Complaints outside the ambit of IHC

4. Complaints outside the ambit of IHC include:

- (a) complaints that are not LSG-related;
- (b) complaints that are LSG-related but have yet to be dealt with by the NGOs concerned;

- (c) anonymous complaints (except those involving misuses of LSG subventions by NGOs, abused or injured service users, or decisions made by NGOs' management that have a direct impact on their service performance or the interests of stakeholders) [Note: anonymous complaints will normally be referred to the NGOs concerned for information and/or follow-up];
- (d) complaints about incidents that the complainants have had knowledge for two years or more [Note: the complaints will be referred to the NGOs concerned for information and/or follow-up];
- (e) complaints that are of the same nature/substance as those previously handled by ICHC;
- (f) complaints for which court proceedings have commenced;
- (g) complaints that fall under the regulatory scope of other ordinances or statutory requirements;
- (h) complaints that fall within the ambit of other official authorities;
- (i) complaints that fall within the ambit of other government bureaux/departments;
- (j) complaints about the handling of individual cases, or the performance or attitude of staff;
- (k) complaints about self-financing services/social enterprises (non-LSG-subvented services) operated by subvented NGOs;
- (l) complaints against non-subvented NGOs; and
- (m) complaints that are malicious, trivial or vexatious in nature.

Complaints/Information that will not/may not be referred to NGOs for follow-up

5. Complaints/Information that will not/may not be referred to NGOs for follow-up include the following:
 - (a) If a complaint is flimsy, ambiguous or lacks sufficient information, the Secretariat may request more concrete information from the complainant before considering whether or not to refer the complaint to the NGO concerned;
 - (b) If a complaint is based on hearsay, the Secretariat may ask the complainant to invite the person with first-hand information (i.e. the aggrieved) to provide information directly to ICHC rather than relying on unsubstantiated information for judgment; and

- (c) The Secretariat will not relay to the NGOs/other parties information that is irrelevant to the complaints, or the messages that are blatantly insulting or constitute personal attacks on NGO staff.

Complaints which may be referred to the other authorities or relevant units of SWD for follow-up

6. Upon obtaining the complainants' consent, if necessary, the Secretariat will refer complaints that fall within the ambit of related SWD units, government bureaux/departments or other authorities, including the Office of the Privacy Commissioner for Personal Data, Hong Kong, the Independent Commission Against Corruption and the Equal Opportunities Commission, etc. for follow-up, or assist complainants in contacting relevant bureaux/departments or authorities for follow-up.

Lodging Complaints

7. Named complaints

A complainant is required to fill in the complaint form (**Annex**) to provide ICHC with details of his/her complaint against the NGO or its service unit(s), his/her name as shown in his/her identity document, and his/her correspondence address and telephone number to facilitate communication and follow-up.

8. Refusal to disclose personal information to the NGO under complaint

Under special circumstances, a complainant may request the Secretariat to refer his/her complaint to the NGO for handling without disclosing his/her personal information, and to receive the NGO's response through the Secretariat. However, the complainant is still required to provide his/her name as shown in his/her identity document, as well as his/her correspondence address and telephone number to the Secretariat. Other procedures for handling this type of complaint are the same as for named complaints.

9. Anonymous complaints

If a complainant (1) has not provided his/her personal data or contact information; (2) has not confirmed the details of his/her complaint with the Secretariat; or (3) has not given the Secretariat consent to refer his/her

complaint to the NGO concerned for follow-up, his/her complaint will be considered anonymous and will be handled as follows:

- (a) If ICHC considers it necessary to follow up the complaint, the Secretariat will remove all personal identifiable information (PII) of the complainant from the complaint and, assuming the integrity of the details of the complaint is preserved, refer the complaint to the NGO for handling. Under this arrangement, the NGO may not respond to the complainant, and the Secretariat will not disclose details of any follow-up actions to the complainant. If the removal of PII causes the details of the complaint to become disjointed, the Secretariat may consider not making a referral or taking follow-up actions.
- (b) If ICHC considers it necessary to follow up the complaint owing to the severity of the allegations, including complaints that involve (i) misuses of LSG subventions, (ii) abused or injured service users, and (iii) decisions made by NGOs' management that have a direct impact on their service performance or the interests of stakeholders, etc., or other reasons, the Secretariat will remove all PII of the complainant from the complaint, and refer the complaint to the NGO for handling. The NGO is required to submit a report on the incident to ICHC within four weeks. Under this arrangement, the NGO may not respond to the complainant, and the Secretariat will not disclose details of any follow-up actions to the complainant.

General investigation

10. The Secretariat will normally contact the complainant within 10 working days upon receiving his/her completed complaint form or a referral from other government departments or authorities. If the NGO has yet to deal with the complaint, the Secretariat will, with the complainant's consent, forward the details of the complaint as confirmed by the complainant together with his/her contact information to the NGO concerned, which will address the complaint and directly reply to the complainant (applicable to named complaints only), with a copy of its reply forwarded to ICHC for information.

11. If the NGO concerned has already given the complainant a detailed reply by the time the complainant lodges his/her complaint with ICHC, it should forward the reply to the Secretariat for information, and to ICHC for review and assessment in order to determine whether the complaint should be further pursued.

12. For LSG-related complaints that are not detrimental to the interests of the complainant or are not urgent or serious in nature, ICHC may relax the time line for starting to handle the complaint. Under general circumstances, the grace period is around three months.

13. If the complainant is dissatisfied with the NGO's handling or reply, he/she should submit a written request to ICHC for follow-up within one month from the date of receipt of the NGO's reply letter. The Secretariat will request supplementary information related to the complaint from the NGO as needed, such as policies/procedures/guidelines for service quality standards and records relevant to the complaint, etc., as well as service requirements/specifications from the relevant service branches of SWD. Based on the information gathered, the Secretariat will prepare a report and submit for ICHC's deliberation at the next ICHC meeting. ICHC will authorise the Secretariat to notify the complainant, NGO concerned and SWD in writing of the decisions and recommendations for improvement (if any), so that SWD may monitor the NGO's service performance in accordance with established mechanisms (if applicable).

Full investigation

14. If a complaint is within the ambit of ICHC and ICHC decides to launch a full investigation into the complaint, the Secretariat will generally require the NGO concerned to submit relevant documents for investigation purposes within four weeks. However, for more complicated cases, the NGO concerned may need more time to prepare the relevant information.

15. On receipt of the relevant information, the Investigation Officer of the Secretariat will visit the NGO/service unit(s) concerned as soon as possible to conduct an investigation and collect information and/or opinions by interviewing/contacting the relevant staff member(s) and/or service user(s) of the NGO/service unit(s) concerned. If the process outlined above is smoothly conducted, the investigation will normally be

completed within three months, and the investigation report will be submitted for ICHC's consideration at the next ICHC meeting. ICHC will authorise the Secretariat to furnish a reply to the complainant, NGO concerned and SWD in writing, informing them of the investigation findings and recommendations for improvement (if any), so that SWD may monitor the NGO's service performance in accordance with established mechanisms (if applicable).

16. ICHC may invite the complainant and/or representative(s) of the NGO concerned to attend a "case meeting" to collect more information about the complaint directly. The "case meeting" panel is composed of the Chairman/Vice-chairman and two rotating members of ICHC (if applicable).

17. If the complainant or NGO concerned refuses to co-operate, the progress and/or results of the ICHC's investigation may be affected. Depending on the actual circumstances at the time, ICHC will decide on the appropriate measures to be taken, including making a judgment or terminating the investigation based on the information obtained or referring the complaint to SWD as appropriate.

Reviewing the decision

18. If the complainant or NGO concerned is dissatisfied with ICHC's decision, a written application for a review of the decision may be submitted within one month from the date of the Secretariat's reply, together with new specific information about the case.

19. The Secretariat will review the case and submit the findings to ICHC for consideration. The decision of ICHC is final. Only in very exceptional circumstances will ICHC approve a second review.

Handling of complaint information

20. To observe the principle of confidentiality, ICHC will not disclose information relating to the complaint to any person without the consent of the complainant and NGO concerned, unless there are special reasons to do so.

21. Any request for information on individual complaint cases will be referred to the Access to Information Officer of SWD in accordance with the procedures specified in the Code on Access to Information. Requests for such information can be made in writing or application form. The requestor may contact the Secretariat for ICHC or download the form available at

[https://www.swd.gov.hk/storage/asset/section/564/en/Application_for_Access_to_Information_\(E\).pdf](https://www.swd.gov.hk/storage/asset/section/564/en/Application_for_Access_to_Information_(E).pdf) All applications should be submitted to the Access to Information Officer of SWD (Mailing address: 10/F, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong; Fax: 2151 0572; Email: daioenq@swd.gov.hk).

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