

**COMPLAINT REDRESSAL SYSTEM:
THE PUBLIC COMPLAINTS BUREAU (PCB)
PRIME MINISTER'S DEPARTMENT, MALAYSIA ¹**

1. Background

Public Complaints Bureau (PCB) was set up in 1971 to deal with complaints made by citizens against the civil service. It started off as a unit in the General Planning Division in the Prime Minister's Department and later became a separate department in the Prime Minister's Department with its own director-general in 1992. PCB is different from the classical Ombudsman system practiced by most countries. An Ombudsman is normally appointed by and acts on behalf of Parliament with powers to investigate complaints against the administration, makes recommendations concerning those complaints and tries to have its recommendations adopted by the administration. Such a system has not been implemented in Malaysia. In its place, PCB has been established and is managed by public officials under the Prime Minister's Department.

PCB's management had always emphasized on a customer-oriented organization, committed to providing effective and quality services to the public at no cost. This is carried out by about 70 officers and staff in the Headquarters and four Regional Offices throughout the country. The four Regional Offices at present are rather insufficient to cater for the increasing numbers of clients. In middle of 2006, PCB was reorganised and expanded with the set-up of state offices to replace the regional offices. By the middle of this year, the four regional offices will be completely replaced by nine state offices including Sabah and Sarawak. PCB is expected to double its staff strength when all these 9 state offices are fully functional by end of 2007. By going nation wide and with its mobile counter complaints programmes, PCB will provide an opportunity to those living in the interior and less accessible areas to voice their problems.

¹ This paper was presented by Dr. Chua Hong Teck, Director-General of Public Complaints Bureau at the 10th. Asian Ombudsman Association Conference, Hanoi, Vietnam, 25-28 April 2007

2. Authority of PCB

PCB was not created by any legislation or Act of Parliament and it is different from the classical Ombudsman system practiced in most countries. In the Ombudsman system, direct legal powers are instituted. Some of them even have both powers for complaint redressal as well as prosecution. In China, the Ministry of Supervision has been empowered by law to inspect, investigate, recommend and most significantly to impose administrative penalties directly.

The PCB is purely an administrative arrangement and it has continued to perform its role effectively by drawing its authority mainly from the various Administrative Development Circulars (ADC) and Administrative Development Circular Letters issued by the Chief Secretary to the Malaysian Government from time to time. At present, the two ADC that are enforced are the ADC No.4 of 1992 on Managing Public Complaints and ADC No.1 of 2002 on Improving the Effectiveness in Managing Public Complaints. The ADC No.4 of 1992 on Managing Public Complaints was introduced by the government to spearhead a dramatic new approach in handling public complaints and redressing them. In 2002, the ADC No.1 of 2002 was issued entitled Improving the Effectiveness in Managing Public Complaints which gave PCB three new additional function in managing public complaints such as monitoring and analyzing on complaints, to implement a pro-active programme and to implement a “people caring” programme involving citizens at grass root levels.

Official Government Circulars unlike legislation can be implemented speedily and does not involve a long process drafting it or going through the parliamentary process which is time consuming. This approach indeed provides a certain degree of flexibility and is not unduly tied down by lengthy procedures, which may be mandated under legislation. Circulars that had outlived its purposes and objectives could be easily withdrawn and substituted by new ones to address new issues or problems that may have surfaced. A competent legislation by itself may not be sufficient. It must be supported by an organisation that possesses the requisite skills and trained manpower to effectively carry out its

main provisions or to achieve the desired objectives. Furthermore, PCB's investigation officers are recruited from various government agencies and these experience and familiarity with the functions of other agencies had further enhanced the operations of the PCB as one of the foremost authority in the country in managing public complaints.

The Permanent Committee on Public Complaints (PCPC) was introduced in 1992. PCB reports to the PCPC, a high-powered committee, chaired by the Chief Secretary to the Government. Other members include the Director-General of Public Services Department, the Director-General of Malaysian Administrative and Modernisation Planning Unit, The Director-General of Anti-Corruption Agency and the Senior Deputy Secretary General of the Prime Minister's Department. Reports on allegations of serious wrongdoings in the public service would be reported to the committee which would then decide on the appropriate actions to be taken. PCB has frequently referred complicated and systemic cases to the PCPC for its consideration. The committee has extensive powers, including the right to institute investigations and to direct any officer to explain and account before it. It can also give PCB the right of access to records. By virtue of being the Head of the Malaysian Civil Service, the Committee Chairman has wide-ranging powers, inherent in his appointment. With such powers behind it, the PCB is certainly well equipped to discharge its responsibilities and to ensure that justice is provided to the aggrieved party. All decisions made by PCPC must be implemented promptly by the relevant departments. This Malaysian model is different from traditional Ombudsman model which has no direct power under the law to enforce its recommendation.

The PCB is accountable to the PCPC, which in turn is responsible to the Cabinet. The Malaysian Civil Service has had a long tradition of being non-partisan and had always stayed out of politics. Any public servant who desires to contest in an election for example, was required to resign from his current posts. The civil service is required to give its undivided loyalty to the government of the day and to implement its policies fairly. This impartiality of the Civil Service is sometimes

vulnerable and opened to interference by the political masters. But its continued existence and expansion in recent years have resolved some misgivings about the impartiality and effectiveness of the organisation.

Apart from PCPC, the government set up a PCB Advisory Board in April of 2006 which comprises distinguished public figures with vast experience in their fields in public, private and NGO sectors. This will allow PCB to tap into the vast expertise and experience from them as well as derive support in their work.

3. Jurisdiction

PCB can investigate complaints made against the public sector on their dissatisfaction towards any maladministration. The emphasis is placed on any administrative government action that is deemed to be unjust, not in accordance with existing laws and regulations, abuse of power, misconduct of public servants, delay or non-delivery of services, lack of public facilities and other inefficiencies. The public sector agencies include the federal, state and local authorities. For Sabah and Sarawak, it covers only the federal agencies. PCB can investigate complaints against any public agencies that have been privatised such as the public utilities. However, it does not take up complaints that regarding government policies and matters that are under the authority of Public Accounts Committee, Anti-Corruption Agency and Legal Aid Bureau. It does not interfere in family disputes, civil claims and complaints against private companies not associated with the Government.

Though PCB's authority and powers are governed by Official Circulars, they do not have the same force of law compared to powers conferred under an Act or Legislation duly passed by Parliament. Nevertheless, its effectiveness is seen by the increasing complaints lodged and the high rates of solving these complaints. The number of complaints received and resolved from 2004-2006 is in **Table 1**. The types of complaints received for 2006 is in **Table 2**.

4. Complaint Handling Process and Procedure

There are many internal arrangements and avenues for handling complaints in Malaysia. Examples of these include the Consumer Claims Tribunal that handles complaints on the sale of goods and services and the Housing Tribunal which attends mainly to complaints brought by house buyers. The Financial Mediation Bureau assists in settling disputes between consumers and the financial institutions.

There are also several active interest groups such as political parties and Non-Government Organization (NGO) that protect the interest of consumers and the public in general. Notably among these organizations are the Malaysian Chinese Association (MCA) Public Complainants Unit, and the Penang Consumers Association (CAP), which has actively championed the cause of consumers. These organisations have also referred some of their cases to the PCB. These institutions no doubt provide a wider area of choice for the citizen in dealing with a complex administrative system and they complement the role of the PCB as the principal government mechanism for solving public grievances. The public generally tends to use the services of PCB as a last resort when all other avenues have been exhausted. As a result of that, PCB handles complaints that are more complex and time consuming to resolve.

Though we do not attend to customer's complaints within 24 hours, we do have a comprehensive mechanism to enable the officers to attend to these complaints within a reasonable time. We have put in place several channels to enable the public to voice their complaints such as walk-in to our headquarters and 9 state offices, free postal mail (to P.O. Box 9000 Kuala Lumpur), e-mail at aduan@bpa.jpm.my, interactive web-site at www.bpa.jpm.my, easily remembered telephone and facsimile numbers at [603-88887777/88887778](tel:603-88887777). Complainants can check the status of their complaints at our web-site by using the complaint number provided or their national registration identification number. The Mobile Complaints Counter is another innovative approach where by PCB operates special counters in remote parts of the country mainly to cater for those

unable to use the existing channels of communication. The number of complaints received through the various channels from 2004-2006 is in **Table 3**.

PCB service is free of charge. It receives every complaint without any prejudice and the complainant is given all due respect of privacy. This is evident in our complainant reporting form and in the investigation manual. Officers and staff have access to files that are handled by them. Only the Deputy Director-General and Director-General have access to all complaints and complainants. PCB will listen to both sides of the argument and have timelines to acknowledge complaints, investigate, report progress and inform the outcome. All these are clearly spelt out in our Client Charter. There is a dispute resolution mechanism if the complainant is not satisfied with the investigation or outcome.

When a complaint is received, we will ask the complainant what action has been taken to resolve the complaint. We will also ask the complainant how PCB can resolve it and action to be taken by PCB. It is important to know what the complainant wants and try to resolve it according to the request. This has to be done within the confines of the existing rules and regulations. PCB will request that all relevant documents relating to the complaint be provided by the complainant to PCB. PCB does not keep original copy of the document except for photographs which can be reprinted. We also ask the complainant whether their identity to be revealed when PCB request the government agency to reply to the complaint sent by PCB. After we are satisfied with the reply (get the other side of the story), we will let the complainant know. If needed, meetings will be held with all concern or PCB with government agency to get into details about the complaint. After this, if PCB decides that the government agency has treated the complainant fairly, we will let the complainant know. Sometimes, a compromise can be reached so as to reach a win-win situation for both parties.

If the complainant has or in the process of bring the complaint to the court, PCB will not take up the complaint. We will not take up complaint for any issue that has occurred for more than 7 years ago. On average, PCB is able to settle the

complaints within 2 to 4 months. This may seem long but PCB resolving complaints that are complicated and may involve a number of government agencies. For 2007, we hope to resolve 80 % of the complaints with 2 months. A customer's satisfaction feedback form is sent to the complainant after the complaint is resolved.

Another way the PCB has enhanced the public complaint process is by having the most important or frequently used help lines of public agencies and also certain private companies on its website. These help lines can be printed out to be kept for easy reference. The public is also encouraged to keep their numbers in the mobile telephones to provide feedback or complaints to these agencies. By becoming eyes of these agencies, they help to provide feedback and ultimately better services to the public. These help lines are useful for public to report any faulty public utilities and even accidents that happen on the highways to the authorities. This will create more civic-consciousness amongst the public and enhanced their lives and those living around them.

5. Improving the Public Delivery System

One of the major roles of PCB is to bring about innovations concerning legislations and the government administrative machinery. Examples include, a new legislation was passed to cover illegal money lending activities, which had affected a large number of people and the Housing Tribunal Act legislation, passed by Parliament to address the grievances of house-buyers who were frequently exploited by developers, by taking advantage of certain loopholes in the Housing Developers Act. These legislative changes were brought about largely due to the initiative of PCB, based on the increasing number of complaints received regarding these issues. The government is considering legislation on the minimum length of setback between highways and residential houses within the city limit as a result of the issue being brought to PCPC for consideration.

In line with the government aspirations to create a transparent, accountable and an effective service, PCB is also empowered to recommend the restructuring of certain department / agency that had failed to deliver quality service to the public. Those departments that did not have any complaints handling system were required to establish an internal mechanism and also to appoint a special Complaints Liaison Officer to monitor and resolve complaints timely.

PCB had also recommended the computerisation of the complaints handling system of certain agencies which were saddled with an increasing number of complaints which could not be handled or resolved quickly by employing the manual system. PCB was given the authority to design a computer-based system to be adopted by many agencies at a low cost. PCB will be implementing a web-based complaint management system to further enhance the management of complaints in the public service in the next couple of years. Thus PCB is an important agency in providing information and feedback to the government on the civil service delivery system.

6. Conclusion

PCB has enhanced the complaint redressal system in Malaysia over the past few years. This has enabled the public to use the services offered by PCB more extensively. Apart from this, the role of PCB has been expanded. PCB is expected to go nation wide by the middle of this year. The number of complaints and complainants has increased over the same period. Even though there are many similar bodies like the PCB that are managed by NGOs and political parties, PCB will continue to strive to be the foremost authority in the country in managing public complaints. PCB will continue to be the eyes and ears of the public service. This will improve the government delivery system and ultimately provide a more effective and efficient government service for the public.

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References:

1. **Administrative Development Circular No. 4 of 1992**
(Pekeliling Kemajuan Pentadbiran Awam Bilangan 4 Tahun 1992)
2. **Administrative Development Circular Letter No. 1 of 2002**
(Surat Pekeliling Kemajuan Pentadbiran Awam Bil. 1 Tahun 2002)
3. **Annual Report 2006, Public Complaints Bureau, Prime Minister's Department**

Table 1: Complaints Received and Resolved

Year	Ministry	State	Total Received	Total resolved	% Resolved
2004	1,858	928	2,786	2,252	80.8
2005	1,578	1,129	2,707	2,247	83.0
2006	1,965	1,432	3,397	2,936	86.4

Table 2: Category of Complaints

No.	Category	2006	%	2005	%	2004	%
1.	Delay/No Action	1,295	38.1	1,130	41.7	1,271	45.6
2.	Unsatisfactory Quality of Service	574	16.9	292	10.8	172	6.2
3.	Unfair Action	370	10.9	155	5.7	126	4.5
4.	Failure to Enforce	349	10.3	339	12.5	334	12.0
5.	Lack of Public Amenities	292	8.6	181	6.7	188	6.7
6.	Others	186	5.5	337	12.4	337	12.1
7.	Failure to Adhere to Procedure	111	3.3	96	3.5	101	3.6
8.	Misconduct of Public Servants	103	3.0	77	2.8	103	3.7
9.	Abuse of Power	85	2.5	86	3.2	132	4.7
10.	Inadequacies of policy	32	0.9	14	0.5	22	0.8
	TOTAL	3,397		2,707		2,786	

Table 3: Channel of Complaints

No.	Channel	2006	%	2005	%	2004	%
1.	Programmes	1,304	38.6	770	28.4	565	20.2
2.	Letters & Forms	965	28.4	1,073	39.7	1,348	48.3
3.	Web-site & E-mail	597	17.3	423	15.6	289	10.4
4.	Walk-in	339	10.0	291	10.8	413	14.8
5.	Telephone	176	5.2	136	5.0	120	4.3
6.	Others	16	0.5	14	0.5	57	2.1
	Total	3,397		2,707		2,792	