

## Chapter 3

### Demand Study Report (Part II) – Survey of Households

#### 1. Introduction

- 1.1 The report presents the findings of the questionnaire survey on the demand for legal and related services by members of the public in Hong Kong and is organised into the following sections:
- (a) Survey methodology;
  - (b) Profile of respondents;
  - (c) Nature of difficult-to-solve problems or disputes;
  - (d) Handling of difficult-to-solve problems or disputes; and
  - (e) Views on access to justice.
- 1.2 The report is based on the views and information provided by respondents sampled in the questionnaire survey, which are representative of the general public in Hong Kong. The statistics in the report are based on 10,385 questionnaires received up to end November 2006.

#### 2. Survey Methodology

- 2.1 The survey was conducted on a representative sample of members of the public through the use of a structured questionnaire. Information solicited in the survey was as follows:
- (a) Types and frequency of justiciable problems encountered by members of the public;
  - (b) Responses of members of the public faced with justiciable problems, including the help-seeking behaviour they adopted, their use of legal and para-legal services, alternative dispute resolution methods, self-help strategies and avoidance strategies;
  - (c) The motivation for using the courts or alternative forms of dispute resolution and the extent to which the objectives of those using these services were achieved; and
  - (d) Perceived obstacles to access to justice, the level of knowledge within the community of legal remedies and procedures, and the experiences and perceptions on the legal and related services used.
- 2.2 A two-stage random sampling design was adopted for the survey. In the first stage, a random sample of 6,000 quarters was selected from the Frame of Quarters. In the second stage, all persons aged 15 or above in the households who were living in the sampled quarters during the survey period were covered. A total of 3,788 addresses were successfully enumerated. After excluding from the sample 655 addresses that were non-residential, vacant or demolished, or with non-Cantonese, non-Putonghua and non-English speaking residents, the quarters response rate was estimated to be around 71%. Out of the quarters enumerated, 487 or 13% were partially enumerated. According to responses given

by heads of households, there were 11,244 persons aged 15 or over living in the quarters enumerated, of whom a total of 10,385 persons were successfully interviewed. The response rate of individuals for these quarters was 92%.

- 2.3 Data collection was carried out during the period from January to November 2006. A face-to-face interviewing method, with every effort made to minimise inconvenience caused to the respondents, was adopted. The respondents were first contacted by mail, explaining the purpose of the survey and assuring them that the information supplied would be kept strictly confidential. Visits were then paid to the respondents to obtain the information required through a face-to-face interview. Repeated visits were often required in order to increase the response rate of the survey.

### **3. Profile of Respondents**

- 3.1 About 72% of the households enumerated had a household size of 2 to 4. About 9% were one-person household and the remaining 18% had 5 or more members. About 48% of the households were owner-occupiers, and the remaining 51% main tenants, sub-tenants or co-tenants. Slightly less than half (44%) were from public rental housing, 20% from public subsidised sale flats, and the remaining 36% from private housing.
- 3.2 About 48% of the respondents from the households were male and the remaining 52%, female. More than half (62%) were married or cohabited, and 31% never married. The remaining 7% were divorced, separated or widowed. About 41% of the respondents were aged below 40, and a further 40% aged 40–59. The remaining 19% were 60 or above.
- 3.3 Slightly less than half (49%) of the respondents had only junior secondary education or below, and a further 33% had senior secondary education. The remaining 18% had post-secondary or university education. About half (53%) of the respondents were employees, employers or self-employed and 10% of respondents were students. The remaining 36% were home-makers or retirees, or had nothing to do.
- 3.4 About 41% of those who were employees, employers or self-employed were earning \$10,000 or less a month, and a further 24%, \$10,001-\$15,000 a month. 9% were earning \$15,001-\$20,000 and 14% were earning more than \$20,000 a month.

### **4. Nature of difficult-to-solve Problems and Disputes**

#### **Overview**

- 4.1 About 19% of the respondents indicated that they had experienced difficult-to-solve problems or disputes that occurred in Hong Kong or had a significant connection with Hong Kong in the past 12 months. A further 13% had such problems in the past 5 years other than the past 12 months. 8% of the respondents did not have such problem in past 5 years and 60% never experienced such problems.

- 4.2 Of the total number of incidents experienced during the period, 30% were related to consumer-matters and another 27% to damage and disturbances caused by others. A further 12% of the incidents were employment related. The proportion was lower for landlord problems (1%), family-related problems (2%), and problems related to services provided by professionals (2%).
- 4.3 About 86% of the incidents were considered important, including 31% with actions taken. About 30% of these incidents were consumer-related matters and 29% were related to damage and disturbances caused by others. Employment related problems accounted for 12%. About 34% of the incidents considered important involved business corporations and a further 37% involved private individuals. Employers accounted for 11% and government departments and other organisations, 9%.

#### **Employment related problems or disputes**

- 4.4 About 5% of the respondents who had experienced difficult-to-solve problems or disputes had employment disputes or related problems in the past 12 months. 10% had these in the past 5 years excluding the past 12 months, and another 6% had such experience more than 5 years ago. For respondents who had such problems in the past 5 years, the great majority (87%) had only one incident during the period, while 12% had two.
- 4.5 About 37% of these incidents were related to the payment of salaries or bonuses, 15% to relationship with supervisors/ colleagues, 14% to working conditions. 51% of the incidents were considered important, but with no action taken and 28% with actions taken. About 42% of these were related to the payment of salaries and bonuses, 13% to relationship with supervisors or colleagues and a further 11% to dismissal by employers. Discrimination or other unfair treatment, working condition, employment contract in general, employment of domestic helpers and others accounted for 34%. About 57% of the incidents involved money.

#### **Tenant problems or disputes**

- 4.6 About 3% of the respondents who had experienced difficult-to-solve problems had tenant disputes or related problems in the past 12 months, and another 4% had these earlier. For those who had such experience in the past 5 years, the great majority (95%) had only one incident during the period.
- 4.7 Of the tenant related problems experienced by these respondents, about 50% were related to repairs and maintenance inside premises by landlord, and a further 29% to payment of rent. Incidents related to tenancy agreement, termination of tenancy by landlord, recovery of rental deposits and others accounted for the remaining 21%.
- 4.8 About 73% of these incidents were considered important, including 28% with actions taken and 45% with no actions taken. About two thirds (66%) of these were related to repairs and maintenance inside premises by landlord, and a further 9% were related to payment of rent and 8% to tenancy agreement. Termination of tenancy, recovery of rental deposits from landlord and other tenant disputes by landlord accounted for the remaining 17%. Only about 23% involved money.

### **Landlord related problems or disputes**

- 4.9 Only 0.3% of the respondents who had experienced difficult-to-solve problems had experienced landlord disputes or related problems in the past 12 months and another 1% had these incidents in the past 5 years excluding the past year.
- 4.10 About 43% of the incidents related to landlord problems experienced during the period were considered important with action taken. The remaining 56% were also considered important but no action was taken. Only 1% was considered unimportant.
- 4.11 For incidents that were considered important, 62% were related to default in payment of rent, 18% to damage of properties by tenants, and a further 15% to termination of tenancy. Tenancy agreement and other complaints made by respondents accounted for the remaining 5%.

### **Problems related to owners of residential properties**

- 4.12 Only about 2% of the respondents who had experienced difficult-to-solve problems had experienced problems related to owners of residential properties in the past year, and another 2% in the past 5 years excluding the past 12 months. For those who had such experience in the past 5 years, about 92% had only one such incident during the period. About 8% had two.
- 4.13 Of the incidents related to owners of residential properties experienced by respondents during the period, about 41% were related to repairs and maintenance inside premises, and a further 38% to repairs and maintenance of communal properties. Incidents related to owners' corporation affairs, sale and purchase of properties, urban renewal and acquisition by landowners, and others complaints by respondents accounted for the remaining 21%.
- 4.14 About 88% of these incidents were considered important, including 41% with actions taken and 47% with no actions taken. More than one third (37%) of these were related to repairs and maintenance inside premises, and a further 35% related to repairs and maintenance of communal properties. About 24% of the incidents involved money.

### **Consumer-related disputes and problems**

- 4.15 About 20% of the respondents who had experienced difficult-to-solve problems had experienced consumer-related problems in the past 12 months, 14% in the past 5 years excluding the past 12 months, and another 20% earlier. For those respondents who had such experience in the past 5 years, about 82% had only one incident during the period, while about 18% had two or three incidents.
- 4.16 About 48% of the incidents in the past 5 years were related to faulty goods bought or poor services, and a further 27% related to dispute over charges. The rest involved complaints against sales representatives, disputes over purchase agreements and other complaints accounted for the remaining 25%.
- 4.17 About 84% of these incidents were considered important, including 38% with actions taken and 46% with no actions taken. About 47% were related to faulty goods bought or poor services, and a further 28% related to dispute over charges. Other complaints against sales representatives, misrepresentation by sales representatives, dispute over purchase

agreements and other complaints made by respondents accounted for the remaining 25%. About 67% of the incidents involved money.

#### **Other money problems or disputes**

- 4.18 About 2% of the respondents who had experienced difficult-to-solve problems had incidents involving other money problems or disputes in the past 12 months, and another 4% had these in the past 5 years excluding the past 12 months. For those with such experience in the past 5 years, the great majority (94%) had only one incident during the period. The remaining 6% had 2 incidents.
- 4.19 About 62% of these incidents in the past 5 years were related to getting money back from debtor, and a further 18% related to insurance claims.
- 4.20 About 88% of these incidents were considered important, including 28% with actions taken and 60% with no actions taken. For the incidents that were considered important, about 66% were related to getting money back from debtors, and a further 19% to claims related to insurance. The remaining 15% were incidents related to disputes over money with others, problems with creditors or debt collectors, and bankruptcy disputes.

#### **Problems or disputes related to damage and disturbances caused by others**

- 4.21 About 18% of the respondents who had experienced difficult-to-solve problems had incidents related to damage and disturbances caused by others in the past 12 months, 12% in the past 5 years excluding the past 12 months, and another 4% earlier. For those with such experience in the past 5 years, about 82% had only one incident during the period, and 14% had two such incidents.
- 4.22 About 81% of these incidents involved disturbances caused by neighbours and others, and a further 12% related to damage to properties caused by neighbours and others. The rest involved dispute with neighbours and others and other complaints made by respondents accounted for 7%.
- 4.23 About 94% of the incidents were considered important, including 28% with action taken and 66% with no actions taken. About 82% involved disturbances caused by neighbours and others, and a further 12% related to damage to properties caused by neighbours and others. The rest involved dispute with neighbours and others and other complaints. Only about 4% of the incidents involved money.

#### **Problems or disputes related to injuries or health problems in the workplace**

- 4.24 About 2% of the respondents who had experienced difficult-to-solve problems or disputes had injuries or health problems in the workplace in the past 12 months, and another 2% had such incidents in the past 5 years excluding the past 12 months. For those that had such problems in the past 5 years, 96% had only one incident during the period and the remaining 4% had two or three.
- 4.25 For these incidents, about 69% were related to accidents at workplace, and a further 21% to health problems caused by the working environment. The rest involved health problems caused by work arrangement and accidents outside workplace while on duty.

- 4.26 About 82% of these incidents were considered important, including 22% with action taken and 60% with no actions taken. 66% were related to accidents at workplace, and a further 23% to health problems caused by working environment. Health problems caused by work arrangement, accidents outside workplace while on duty and other incidents accounted for 11% of the incidents. About 36% of these incidents involved money.

#### **Family-related disputes or problems**

- 4.27 Only about 0.4% of the respondents who had experienced difficult-to-solve problems had incidents of family-related disputes or related problems in the past year, and another 0.9% had these incidents in the past 5 years excluding the past 12 months. For those who had such incidents in the past 5 years, about 61% had only one incident during the period while the remaining 39% had two to five.
- 4.28 About 38% of the incidents were related to divorce or separation, and a further 12% related to extra-marital affairs of spouse.
- 4.29 About 91% of the incidents were considered important, including 44% with action taken and the remaining 47% with no action taken. 40% of these were related to divorce or separation, 18% to payment of maintenance for child or spouse, and a further 14% to extra-marital affairs of spouse. About 38% of the incidents involved money.

#### **Problems related to injuries or health problems outside the workplace**

- 4.30 About 2% of the respondents who had experienced difficult-to-solve problems had incidents related to injuries or health problems outside the workplace in the past 12 months, and another 3% in the past 5 years excluding the past 12 months. For those encountering these incidents in the past 5 years, 99% had only one such incident during the period, and the only remaining 1% had two.
- 4.31 69% of these incidents related to problems caused by food taken in restaurants, and a further 14% by traffic accidents. The rest involved problems caused by services and faulty goods bought and other complaints made by respondents.
- 4.32 About 82% of the incidents were considered important, including 20% with action taken and 61% with no action taken. About 67% were related to injuries or health problems caused by food taken in restaurants and a further 15% related to injuries caused by traffic accidents. Injuries or health problems caused by faulty goods bought and services and other complaints made by respondents accounted for the remaining 18%. About 26% of the incidents involved money.

#### **Problems or disputes related to government departments/ government officials**

- 4.33 Only 2% of the respondents who had government experienced difficult-to-solve problems had incidents related to government departments or officials in the past 12 months. Another 3% had such experience in the past 5 years excluding the past 12 months. For those with such experience in the past 5 years, the great majority (93%) had only one incident during the period, while the remaining 7% had two or three such incidents.

- 4.34 For these incidents, 34% were related to traffic offence tickets. 24% to treatment by police officer and 10% to tax assessment. Incidents related to application for public housing/ shelter or temporary accommodation, immigration and tickets issued for littering offences accounted for 11%, and the remaining 22% were related to other complaints.
- 4.35 About 85% of the incidents were considered important, including 15% with action taken and 70% with no action taken. About 24% of these incidents were related to treatment by police officers, 32% to traffic offence tickets and 8% to tax assessment. Tickets issued for littering offences, application for public housing/ shelter or temporary accommodation, immigration and others accounted for the remaining 36%. About 50% of the incidents involved money.

#### **Problems or disputes related to services provided by professionals**

- 4.36 Only about 1% of the respondents with difficult-to-solve problems had incidents related to services provided by professionals in the past 12 months, and another 2% had experienced these incidents in the past 5 years excluding the past 12 months. For those with such experience in the past 5 years, the great majority (97%) had only one incident during the period and the remaining 3% had two.
- 4.37 For these incidents, about 54% were related to poor health or sickness caused by the service or negligence of professionals, and a further 24% to damage caused by the professionals. Incidents related to dispute over fees paid to professionals and other complaints made by respondents accounted for the remaining 22%.
- 4.38 About 96% of these incidents were considered important, including 22% with action taken and 74% with no action taken. 54% of the incidents were related to poor health or sickness caused by the professionals, and a further 24% to damage caused by services or negligence of professionals. The rest involved dispute over fees paid to professionals (10%) and other complaints (12%). About 41% involved money.

#### **Other problems or disputes**

- 4.39 About 2% of the respondents that had experienced difficult-to-solve problems had such incidents in the past 12 months, and another 3% had these incidents in the past 5 years excluding the past 12 months. For those with such incidents in the past 5 years, 95% had only one incident during the period.
- 4.40 30% of these incidents were related to the handling of personal information by others, and a further 45% were related to school or education problems. Discrimination, defamation, right of abode and other immigration issues accounted for the remaining 25%.
- 4.41 About 67% of the incidents were considered important, including 17% with actions taken and 50% with no action taken. 40% of these were related to the handling of personal information by others, 24% to disputes with schools or teachers. About 11% involved money.

#### **Disputes of a criminal nature**

- 4.42 Only less than 1% of the respondents who had experienced difficult-to-solve problems had experienced incidents of a criminal nature in the past. For those who had such incidents in the past 5 years, all of them had only one incident during the period.

- 4.43 All of these incidents were considered important, including 43% with action taken and the remaining 57% with no action taken. About 24% of these incidents were related to thievery, 21% to credit cards deception and 16% to other deception. The remaining 39% included robbery, assault, employment trap and other cases. About 78% of the incidents involved money.

## **5. Handling of difficult-to-solve Problems or Disputes**

### **Whether action taken**

- 5.1 Overall action had been taken by respondents on 37% of the incidents that were considered important. In terms of categories of incidents, the proportion with action taken were higher for family-related problems (54%), problems related to owners of residential properties (53%) and consumer-related problems (47%), and lower for problems related to government departments and government officials (20%), and to services provided by professionals (20%). For the 63% of important incidents with no action taken, 46% had no plan to take any action or did not know what to do. Another 1% was contemplating taking action or waiting for the other side to take action.
- 5.2 The main reasons for not taking actions were “not knowing what action to take” (accounting for 24% of the incidents concerned), “not knowing how to take action” (23%), “no need” (26%), “believing it will take too much time” (21%), “not believing anything can be done” (18%) and “not wanting to ruin relationship with the other side” (17%).

### **Types of actions taken**

- 5.3 For incidents with actions taken, the types of actions were mainly “talking to the other side” (accounting for 76% of incidents concerned), “seeking advice on how to resolve the problem” (21%), “complaining to government departments or authorities” (19%) and “talking to management office” (11%).

### ***Employment related problems or disputes***

- 5.4 For these incidents, the types of actions were mainly “talking to the other side” (accounting for 79% of incidents concerned), “seeking advice on how to resolve the problem” (22%), and “complaining to government departments or relevant authorities” (48%).

### ***Tenant problems or disputes***

- 5.5 The actions taken for these incidents were mainly “talking to the other side” (accounting for 82% of incidents concerned), and “seeking advice on how to resolve the problem” (41%). Others included “complaining to government departments or relevant authorities” (25%).

### ***Landlord related problems or disputes***

- 5.6 The actions taken were mainly “talking to the other side” (accounting for 78% of incidents concerned). Others included “taking the case to court or tribunal” (27%) and “complaining to government departments or relevant authorities” (22%).



### ***Problems related to owners of residential properties***

- 5.7 For these incidents the types of actions taken were mainly “talking to the other side” (75%) and “seeking advice on how to resolve the problem” (34%). Others included “complaining to government departments or relevant authorities” (15%).

### ***Consumer-related problems and disputes***

- 5.8 The main actions taken were “talking to the other side” (accounting for 95% of incidents concerned). Other actions included “seeking advice on how to resolve the problem” (17%) and “complaining to government departments or relevant authorities” (9%).

### ***Other money problems or disputes***

- 5.9 The actions taken were mainly “talking to the other side” (accounting for 86% of incidents concerned) and “seeking advice on how to resolve the problem” (24%).

### ***Problems or disputes related to damage and disturbances caused by others***

- 5.10 For these incidents, the actions taken were mainly “talking to the other side” (42%), “talking to management office” (43%), “complaining to government departments or relevant authorities” (24%) and “seeking advice on how to resolve the problem” (20%).

### ***Problems or disputes related to injuries or health problems in the workplace***

- 5.11 The actions taken for these incidents were mainly “talking to the other side” (75%). Others include “seeking advice on how to resolve the problem” (14%), “complaining to government departments or relevant authorities” (23%).

### ***Family-related problems or disputes***

- 5.12 The main types of actions taken were “talking to the other side” (79%), “taking the case to court or tribunal” (34%) and “seeking advice on how to resolve the problem” (23%).

### ***Problems related to injuries or health problems outside the workplace***

- 5.13 For these incidents, the main action taken were “talking to the other side” (77%) and “complaining to government departments or relevant authorities” (30%).

### ***Problems or disputes related to government departments/ government officials***

- 5.14 The main action taken for such incidents was “talking to the other side” (82%). Others included “seeking advice on how to resolve the problem” (20%) and “complaining to government departments or relevant authorities” (13%).

### ***Problems or disputes related to services provided by professionals***

- 5.15 For these incidents, the main actions taken were “talking to the other side” (95%) and “seeking advice on how to resolve the problem” (59%).

### ***Other problems or disputes***

- 5.16 The main actions taken were “talking to the other side” (76%) and “complaining to government departments or relevant authorities” (37%).

### ***Disputes of a criminal nature***

- 5.17 For such incidents, the actions taken included “seeking advice on how to resolve the problem”, “complaining to government departments/ relevant authorities” and “talking to the other side”.

### **Contacts with the other parties**

- 5.18 For 84% of the incidents, the respondents concerned had attempted to contact the other parties through various means. For these cases, more than half (58%) were satisfactorily settled. The remaining 42% were not settled because the other parties had no response, refused to be contacted or accept the offers, or that the counter-offers by the other party was not acceptable or negotiations were still underway.
- 5.19 For the remaining 16% of the incidents, the respondents’ reasons for not contacting the other parties were mainly that they did not want to contact the other party (accounting for 51% of incidents involved) or that they believed the problems could not be settled through mutual agreement between the parties concerned (15%).

### **Help seeking behaviour**

- 5.20 In trying to solve the problems or disputes that were considered important, the respondents concerned usually tried to contact their family members, relatives and friends first (81% of incidents). As regards the second party to contact for assistance, the respondents usually approached their management offices (28%), government departments (other than the Police) and Legal Aid Department (28%) and the Police (5%).
- 5.21 For the third party to contact, the respondents more likely tried to approach government departments (other than Police and Legal Aid Department) (11%), Legal Aid Department (9%) and Police (9%). For the fourth party, it appeared the respondents were more likely to approach mediators, Law Society/ Bar Association, Legal Aid Department and solicitors, based on the small base data available at this level of detail.

### **Assistance from other parties**

- 5.22 In handling their important incidents of difficult-to-solve problems, the respondents often sought assistance from other parties. These mainly included non-legal individuals such as family members, relatives, friends, social workers and different levels of councillors, or organisations such as the Bar Association, Law Society, Social Welfare Department, Labour Department and Home Affairs Department. In a smaller number of incidents, the respondents also sought assistance from the Free Legal Advice Scheme of the Government, legal aid, solicitors, barristers, claims agents and consultants, or used arbitration or mediation services.

### *Assistance from individuals or organisations*

- 5.23 For about 60% of the incidents with action taken, assistance was obtained from non-legal individuals or from organisations offering some form of legal related services.
- 5.24 For about 78% of these incidents, advice was provided by these individuals or organisations on how to solve the problems. For another 29%, assistance in contacting or negotiating with the other parties was obtained, and for about 25% of incidents, advice was provided on where to obtain assistance. For about 16% of incidents, legal advice, such as advice on legal rights, legal procedures and legal proceedings, was obtained.
- 5.25 For 65% of the successful contacts made to obtain assistance from these individuals or organisations, the respondents were able to obtain immediate assistance from the parties contacted. For about 14%, however, the respondents had to wait for 7 days or more before getting assistance.
- 5.26 For about 64% of these successful contacts, the follow-up action suggested was to talk to the other side. For 10%, the respondents were advised to do nothing, and for another 10%, to complain to government departments. Other actions suggested were to “try mediation or arbitration” (6%), “take the matter to court or tribunal” (4%), or to “threaten other side with legal action” (3%).
- 5.27 For 60% of these successful contacts, the respondents concerned considered the assistance helpful or very helpful. For another 17%, the assistance was considered not very helpful or not helpful at all.
- 5.28 For 61% of these successful contacts, the respondents concerned would recommend other people facing similar situations to seek assistance from the individuals or organisations from whom they had sought assistance. For only about 9% of these incidents, the respondents would definitely or probably not recommend other people facing similar situations to seek assistance from these parties.
- 5.29 When analysed by categories of individuals or organisations from whom assistance was obtained, a higher proportion of respondents would definitely or probably recommend other people facing similar situations to seek assistance from family members (accounting for 64% of respondents who had sought assistance from family members), Labour Department (78%), social workers (54%), Bar Association/ Law Society (50%) and NGOs (50%).

### *Assistance from the Free Legal Advice Scheme*

- 5.30 For about 2% of the incidents, assistance was obtained through the Free Legal Advice Scheme of the government. When analysed by categories of incidents, the percentage was higher for incidents related to disputes of a criminal nature (accounting for 25% of incidents concerned) and family-related (12%) problems. For the remaining 98% of incidents, the reasons for not seeking assistance or advice through the Free Legal Advice Scheme were that the respondents “did not think it could help” (accounting for 32% of incidents concerned), were “not aware of such a service” (19%), they had “no need” (16%), or “the waiting time was too long” (3%).

- 5.31 For 60% of the incidents with assistance through the Free Legal Advice Scheme, the respondents considered that the assistance was helpful or very helpful. For another 20%, the respondents concerned considered the assistance not very helpful or not helpful at all.
- 5.32 For about 53% of the incidents, the respondents were able to obtain immediate assistance. For another 15%, the waiting time was within 7 days and for a further 22%, the waiting time was more than 7 days.
- 5.33 About 50% of the incidents, the respondents concerned would recommend other people facing similar situations to seek assistance through the Free Legal Advice Scheme. Only for about 7% of the incidents, the respondents concerned would probably not recommend similarly.

#### *Application for legal aid*

- 5.34 For only about 1% of the incidents with action taken, the respondents concerned had applied for legal aid from the Legal Aid Department. When analysed by categories of incidents, the percentage was higher for incidents related to family problems (accounting for 25% of such incidents). For the remaining 98% of incidents with action taken, the reasons for not applying for legal aid were that the respondents “did not want to pursue legal action” (accounting for 40% of incidents concerned), they were “not aware of such a service” (15%); or they had “no need” (12%).
- 5.35 About 50% of the incidents which applied for legal aid involved family-related problems. The others mainly involved employment related problems and injuries or health problems in the workplace.
- 5.36 For 72% of the incidents which had applied for legal aid, the respondents rated the quality of services provided as acceptable or good. On the other hand, for about 17% of incidents, the respondents concerned rated the quality of services as poor.
- 5.37 In 51% of the incidents, the respondents concerned would probably or definitely recommend other people facing similar situations to apply for legal aid. In about 13% of the incidents, the respondents concerned would probably or definitely not recommend similarly.

#### *Services provided by solicitors*

- 5.38 Assistance from solicitors was obtained for only about 3% of the incidents. About one third (33%) of these incidents with solicitors’ assistance involved family-related problems and 17% involved other money matters. The other major types of incidents included problems related to owners of residential properties (10%), damage and disturbances caused by others (9%) and employment related problems (9%).
- 5.39 When analysed by categories, the percentage that sought solicitors’ assistance appeared higher for incidents related to family problems (accounting for 30% of such problems), landlord problems (16%) and disputes of a criminal nature (14%).
- 5.40 For the remaining 97% of incidents with action taken, the reasons for not seeking assistance or advice from solicitors were that the respondents concerned “did not want to pursue legal action” (accounting for 30% of incidents concerned); “did not think it was related to legal issues” (26%); and “did not think solicitors could help” (12%).

- 5.41 For incidents with assistance from solicitors, the main channels for finding the solicitors were “referrals by friends or relatives” (accounting for 66% of incidents concerned), and “personal friends” (12%). The others included referrals by social workers or voluntary agencies, contacts through free legal advice service provided by voluntary agencies, and advertisements.
- 5.42 The main factors affecting the choice of solicitors were “price” (accounting for 72% of incidents concerned), “reputation of lawyer” (35%), and “experience of lawyer” (35%).
- 5.43 As regards the types of assistance or advice obtained, these mainly include “legal advice” (58%), “documentation” (43%), “issue of letters to other party” (37%) and “appearance in court” (28%).
- 5.44 For incidents with assistance from solicitors, the respondents were charged on average \$9,295. The average charge was higher, at \$10,000, if barristers were also used, and was lower if no barristers were involved, at \$9,263. In about 38% of incidents, the amount charged by solicitors was below \$5,000. For another 11%, the amount was \$5,001-\$10,000, and for 9%, above \$10,000.
- 5.45 For about 75% of these incidents, the respondents concerned knew how the legal fee was calculated, and the actual amount charged turned out to be more or less the same as originally calculated. For another 2%, the respondents also knew how the fee was calculated, but the actual amount turned out to be very much different. On the other hand, for 21% of the incidents, the respondents did not know how the legal fee was calculated and had not asked for such information. For the remaining 2%, the respondents concerned did not know how the fee was calculated even though they had asked for the information.
- 5.46 For 78% of the incidents with assistance from solicitors, the respondents concerned would definitely or probably recommend the solicitors they had consulted to other people facing similar situations. Another 11% would probably or definitely not recommend similarly, apparently because they considered the fees were too high; the solicitors were not professional; the solicitors could not help; or they considered the results were not fair.
- 5.47 For 66% of these incidents, the respondents concerned were very satisfied or satisfied with the services provided by their solicitors. Only about 16% were not very satisfied or not satisfied. For all of the incidents in which solicitors were paid by Legal Aid, the respondents concerned appeared satisfied or very satisfied with the services provided.
- 5.48 For incidents in which the respondents concerned were not satisfied or not very satisfied with the services provided by solicitors, the main reason appeared to be that the legal fee was too expensive. The other reasons cited included poor work attitude; the services were considered to be not useful; or not being satisfied with the results.
- 5.49 In 31% of the incidents with assistance from solicitors, the respondents concerned indicated that the other side had also hired lawyers to help. For about 43%, the other side had not hired lawyers.

- 5.50 About 42% of the incidents with assistance from solicitors were taken to court or tribunal. These mainly included family-related problems, other money matters, problems related to owners of residential properties, and employment related problems.
- 5.51 For those incidents that were taken to court or tribunal, about 57% were taken to the District Court, 15% to the Family Court and 14% to various tribunals. About 14% were dealt with at the higher courts.

#### *Services provided by barristers*

- 5.52 About 4 % of incidents with action taken were taken to court or tribunal, and only about 1% of these were represented by barristers in court proceedings. For incidents taken to court or tribunal but with no barrister assistance, the reasons were mainly that the respondents concerned could not afford the fees (accounting for 34% of incidents concerned) or were already represented by solicitors (23%).

#### *Services provided by consultants or claims agents*

- 5.53 In less than 1% of incidents with action taken, the respondents concerned had used the services of consultants or claims agents. Based on the small number of such cases, these incidents mainly related to injuries or health problems in the workplace, other money matters and employment problems. The main reasons for using these services were apparently that the fees were charged only on a contingency basis; they had confidence in the claims agents successfully solving the problem; or they could not afford or did not want to spend more money or time solving the problem through other means.
- 5.54 For the respondents that had taken action on their incidents, but did not use the services of consultants or claims agents, the main reasons were that they were not aware of such services (35%) or they had no need (16%).
- 5.55 The channels of finding the consultant or claims agents were mainly through referrals by friends or relatives or via direct solicitation by these service providers. Some contacts also came through via advertisements.
- 5.56 None of the incidents using consultants or claims agents was provided free of charge. Another 20% was charged a fee of up to \$5,000 and for a further 21%, more than \$10,000. Most of the respondents concerned indicated that they did not know how the fees were calculated.
- 5.57 For about 50% of the incidents using such services, the respondents concerned would probably recommend the service providers they had used to other people facing similar situations. For another 10%, the respondents would probably not recommend similarly.
- 5.58 For 81% of the incidents with consultants or claims agents, the respondents were satisfied with the services provided. For another 10%, the respondents were not very satisfied, mainly because the problems could not be resolved.

#### *Use of mediation services*

- 5.59 In only about 1% of the incidents with action taken, the respondents concerned had used mediation services. Based on the small number of such incidents, most of these (42%) were

concerned with labour problems or disputes. Others included family-related problems, landlord problems, consumer-related matters and injuries or health problems in the workplace.

- 5.60 For incidents with action taken but which did not use mediation, the main reasons were that the respondents were “not aware of such a service” (accounting for 50% of incidents concerned); they “did not think mediation can help” (29%); or they had “no need” (20%).
- 5.61 In about 52% of the incidents in which mediation services were used, the respondents concerned reached agreement with the other parties. For 18% of the incidents, on the other hand, agreement was not reached. And for the remainder, the outcome was pending as mediation was still in progress.
- 5.62 In about 65% of the incidents which used mediation, the respondents would definitely or probably recommend the mediators they used to other people facing similar situations. For another 13%, the respondents concerned would definitely or probably not recommend similarly.
- 5.63 In about 82% of the incidents using mediation services, the respondents were satisfied with the services provided. For about 6%, the respondents were not very satisfied.

#### *Use of arbitration services*

- 5.64 In less than 1% of incidents with action taken, the respondents concerned indicated that they had used arbitration services. Most (65%) of these incidents were related to employment problems or disputes. The others included family-related problems, landlord problems and problems related to owners of residential properties.
- 5.65 For incidents with action taken but which did not use arbitration services, the main reasons were the respondents concerned were “not aware of such a service” (accounting for 49% of incidents concerned); they “did not want to pursue arbitration” (28%); or they had “no need” (19%).
- 5.66 For the 43% of incidents which used arbitration, the respondents were able to reach agreement with the other parties, while another 23% failed. For the remainder, arbitration was still in progress. For 65% of the incidents concerned, the respondents were not accompanied by anyone other than the arbitrators. For others, the respondents were accompanied by social workers, family members, relatives or friends.
- 5.67 In about 32% of the incidents using arbitration, the respondents would definitely recommend the arbitrators they used to other people facing similar situations. For the remaining 68%, the respondents would probably recommend their arbitrators.
- 5.68 For 77% of the incidents which used arbitration services, the respondents were satisfied with the services provided and for a further 11%, very satisfied. For the remaining 12%, the respondents concerned had no opinion.

## **Outcome of action taken to tackle problems or disputes**

### *Current status*

- 5.69 For about 56% of the incidents with action taken, agreement had been reached with the other parties and no further action was being taken. For another 36%, agreement had not been reached with the other parties but no action was being taken. For about 4% of the incidents, decision had already been reached in court or tribunal, or through other resolution mechanism, with all issues resolved. For about 4% of incidents, the issues were either being tackled in court or tribunal, or through other means.
- 5.70 In 61% of the incidents with action taken, all or most issues were resolved and the problems were no longer there. In another 26% the issues or problems being tackled had not yet been resolved and they were still recurring. In a further 12% of incidents, the problems were no longer there, even though the issues had not yet been resolved.
- 5.71 In 42% of the incidents with action taken, the respondents concerned were not planning to take any further follow-up action. In another 17%, the respondents indicated they did not know what to do next, while in a further 6%, the respondents were contemplating further action or were waiting the other side to take action.

### *Whether objectives met*

- 5.72 For 43% of the incidents with action taken, action was taken to recover loan or money lost, or seek compensation, while for another 34%, the objective was to change the behaviour of the other party. Other objectives of taking action included teaching the other party a lesson (accounting for 11% of incidents), solving the problem as soon as possible (11%), or to see that justice was done (10%).
- 5.73 For about 38% of these incidents, the objectives of taking action were fully achieved, and another 17% largely achieved. On the other hand, for about 28% of incidents, the objectives were not achieved at all, and another 10% only achieved to a small extent.

### *Impact on respondents of action taken*

- 5.74 For about 43% of incidents with action taken, the respondents concerned indicated that the actions taken had no impact on them. When analysed by the nature of impact, for a large proportion of incidents the actions taken had a negative impact on the respondents (e.g. feeling very upset by the actions taken, spending a lot of time, lost money or relationship ruined). In comparison, in only a very small proportion of incidents, the actions taken had a positive impact on the respondents (e.g. happy with the action taken, or relationship improved).

## **6. Views on Access to Justice**

### **Overview**

- 6.1 Twelve questions were asked in the survey on the issues related to access to justice. These questions may be grouped into 3 main categories, namely, affordability, confidence and knowledge.



## **Affordability and legal fees**

- 6.2 Three questions in the survey were related to affordability and legal fees. About (32%) of the respondents agreed that lawyer's charges were reasonable for the work they did. The majority were of the view that most people could not afford paying for legal services even if they did not go to court (74%) and that most people could not afford to go to court if they were not eligible for legal aid (78%).

## **Confidence and related views**

- 6.3 Five questions in the survey were related to confidence in the legal system. Most people agreed with the statements "if I go to court, I will get a fair hearing" (accounting for 71% of respondents enumerated), "courts are an important way for ordinary people to enforce their rights" (69%) and "I have confidence in the independence of judges" (62%), indicating that the public in general had high confidence in the judiciary. The percentage agreeing to the statement "most people have confidence in the ability of lawyers to help people solve their legal problems" was lower at 58%. About 39% of the respondents thought that "many judges were out of touch with ordinary people", which was higher than the 28% who thought otherwise. About 33% did not wish to make any comment.

## **Knowledge**

- 6.4 The remaining four questions in the survey were related to knowledge. The majority of respondents agreed that "most people did not know what to do when faced with legal problems" (accounting for 79% of respondents enumerated), "most people did not know how much it would cost to use legal services to tackle a problem" (77%) and "it was difficult for most people to find out information on the specialisation and experience of lawyers" (71%). This indicated that members of the public generally had little knowledge about how to deal with justiciable problems, the cost involved and how to find suitable lawyers. Furthermore, only about 32% of respondents agreed that "there were enough channels available for most people to seek free legal advice".

## **7. Conclusion**

- 7.1 As high as 40% of the respondents indicated that they had ever experienced difficult-to-solve problems or disputes that occurred in Hong Kong or had a significant connection with Hong Kong, out of which 19% had experienced such problems in the past 12 months. About 86% of these incidents were considered important by the respondents and were mainly related to consumer matters and damage or disturbances caused by others. Action had been taken by respondents concerned on only about 37% of the problems that were considered important. This indicates that most people do not take any action to tackle difficult-to-solve problems encountered.
- 7.2 The most common action taken by respondents to tackle their difficult-to-solve problems was talking to the other side (76%). For about 19% of incidents, complaints were made to government department or relevant authorities, and 21% sought advice on how to solve their problems. Only about 4% of incidents with action taken were taken to courts or tribunals, while alternative dispute resolution mechanism like mediation or arbitration both accounted for less than 1%.

7.3 In a small proportion of incidents (3%), the services of solicitors were used. Furthermore, in only about 1% of incidents, the respondents concerned had applied for legal aid. A prevalence of difficult-to-solve problems, coupled with a low usage of legal and related services, points to the possible existence of a mismatch in the sector.