

## Two illegal workers jailed

Two illegal workers comprising one Indian and one Pakistani were jailed by Shatin Magistrates' Courts yesterday (February 18).

During joint operations conducted by the Immigration Department (ImmD) and the Hong Kong Police Force codenamed "Sahara" on October 10, 2018. One male Indian and one male Pakistani illegal workers, aged 22 and 35, were arrested by enforcement officers in Mong Kok and Sham Shui Po respectively. When intercepted they were conveying goods. Upon identity checking, they produced for inspection recognisance forms issued by the ImmD, which prohibit them from taking employment. Further investigation revealed that they were non-refoulement claimants. Two employers suspected of employing the illegal workers were arrested and the investigation is ongoing.

The two illegal workers were charged at Shatin Magistrates' Courts yesterday with taking employment after landing in Hong Kong unlawfully and remaining in Hong Kong without the authority of the Director of Immigration or while being a person in respect of whom a removal order or deportation order was in force. After trial, they were sentenced to 22 months and two weeks' imprisonment.

The ImmD spokesman warned that, as stipulated in section 38AA of the Immigration Ordinance, illegal immigrants or people who are the subject of a removal order or a deportation order are prohibited from taking any employment, whether paid or unpaid, or establishing or joining in any business. Offenders are liable upon conviction to a maximum fine of \$50,000 and up to three years' imprisonment. The Court of Appeal has issued a guideline ruling that a sentence of 15 months' imprisonment should be applied in such cases.

The spokesman reiterated that it is a serious offence to employ people who are not lawfully employable. The maximum penalty is imprisonment for three years and a fine of \$350,000. The High Court has laid down sentencing guidelines that the employer of an illegal worker should be given an immediate custodial sentence. According to the court sentencing, employers must take all practicable steps to determine whether a person is lawfully employable prior to employment. Apart from inspecting a prospective employee's identity card, the employer has the explicit duty to make enquiries regarding the person and ensure that the answers would not cast any reasonable doubt concerning the lawful employability of the person. The court will not accept failure to do so as a defence in proceedings. It is also an offence if an employer fails to inspect the job seeker's valid travel document if the job seeker does not have a Hong Kong permanent identity card. The maximum penalty for failing to inspect such a document is imprisonment for one year and a fine of \$150,000.

Under the existing mechanism, the ImmD will, as a standard procedure, conduct initial screening of vulnerable persons, including illegal workers, illegal immigrants, sex workers and foreign domestic helpers, who are

arrested during any operation with a view to ascertaining whether they are trafficking in persons (TIP) victims. When any TIP indicator is revealed in the initial screening, the officers will conduct a full debriefing and identification by using a standardised checklist to ascertain the presence of TIP elements, such as threat and coercion in the recruitment phase, and the nature of exploitation. Identified TIP victims will be provided with various forms of support and assistance, including urgent interference, medical services, counselling, shelter, temporary accommodation and other supporting services. The ImmD calls on TIP victims to report crimes to the relevant departments.

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## **Red flag lowered at Golden Beach**

Attention TV/radio announcers:

Please broadcast the following as soon as possible and repeat it at regular intervals:

Here is an item of interest to swimmers.

The Leisure and Cultural Services Department said today (February 19) that the red flag at Golden Beach in Tuen Mun District has been lowered and the beach has been reopened.

The beach was closed earlier on after an oil spill.

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## **Special traffic arrangements for race meeting in Happy Valley tomorrow**

Special traffic arrangements will be implemented in Happy Valley tomorrow (February 20). The arrangements will come into effect one and a half hours before the start of the first race and will last until the crowds have dispersed after the race meeting.

A. Traffic arrangements before the commencement of the first race

1. Road closure

Southbound Wong Nai Chung Road between Queen's Road East and the up-ramp outside Hong Kong Jockey Club (HKJC) will be closed except for vehicles heading for Aberdeen Tunnel.

## 2. Traffic diversions

- Southbound Wong Nai Chung Road between Village Road and the up-ramp outside HKJC will be re-routed one way northbound;
- Vehicles from eastbound Queen's Road East heading for Wan Chai and Happy Valley will be diverted to turn left to Morrison Hill Road;
- Traffic along southbound Morrison Hill Road heading for Happy Valley will be diverted via Sports Road and Wong Nai Chung Road;
- Traffic along Queen's Road East cannot turn right to Wong Nai Chung Road except for vehicles heading to Aberdeen Tunnel;
- Traffic from Cross Harbour Tunnel heading for Queen's Road East will be diverted via the down-ramp leading from southbound Canal Road flyover to Morrison Hill Road to turn right at the junction of Wong Nai Chung Road and Queen's Road East; and
- Traffic from Cross Harbour Tunnel heading for Happy Valley or Racecourse will be diverted via the down-ramp leading from southbound Canal Road flyover to Canal Road East, southbound Morrison Hill Road, Sports Road and Wong Nai Chung Road.

### B. Traffic arrangements before the conclusion of race meeting

#### 1. Road closure

The following roads will be closed from 35 minutes before the start of the last race:

- The up-ramp on Wong Nai Chung Road outside HKJC leading to Aberdeen Tunnel;
- Southbound Wong Nai Chung Road between Queen's Road East and the up-ramp leading to Aberdeen Tunnel;
- Southbound Wong Nai Chung Road between Village Road and the Public Stands of HKJC;
- Westbound Leighton Road between Wong Nai Chung Road and Canal Road East; and
- Southbound Morrison Hill Road between Leighton Road and Queen's Road East.

In addition, southbound Wong Nai Chung Road between the up-ramp leading to Aberdeen Tunnel and the Public Stands of HKJC will be closed from about 10 minutes before the start of the last race.

## 2. Traffic diversions

The following traffic arrangements will be implemented from 35 minutes before the start of the last race:

- Eastbound Queen's Road East at its junction with Morrison Hill Road will be reduced to one-lane traffic heading for northbound Canal Road flyover;
- Vehicles from Cross Harbour Tunnel heading for Wan Chai will be diverted via the down-ramp leading from Canal Road East, U-turn slip road beneath Canal Road flyover, Canal Road West and Hennessy Road;
- Vehicles from Cross Harbour Tunnel heading for Happy Valley will be diverted via the down-ramp leading from Canal Road East, eastbound Leighton Road and Wong Nai Chung Road;

- Traffic on southbound Morrison Hill Road will be diverted to turn left to eastbound Leighton Road;
- Traffic along southbound Morrison Hill Road heading for Happy Valley will be diverted via eastbound Leighton Road and Wong Nai Chung Road; and
- Traffic along westbound Leighton Road will be diverted to Wong Nai Chung Road.

#### C. Learner drivers prohibition

Learner drivers will be prohibited to turn left from Caroline Hill Road to Leighton Road between one and a half hours before the start of the first race and one hour after the last race. In addition, learner drivers will be prohibited from accessing the following roads within the above period of time:

- Shan Kwong Road between Yik Yam Street and Wong Nai Chung Road;
- Village Road between its upper and lower junctions with Shan Kwong Road;
- Percival Street between Hennessy Road and Leighton Road;
- Canal Road East; and
- The service road leading from Gloucester Road to Canal Road flyover.

#### D. Suspension of parking spaces

Parking spaces on southbound Wong Nai Chung Road between Sports Road and Blue Pool Road will be suspended from 11am to 7pm during day racing, from 4.30pm to 11.59pm during evening racing, and from 5pm to 11.59pm during night racing.

Any vehicles found illegally parked within the precincts of the above affected areas will be towed away without prior notice.

Actual implementation of road closure and traffic diversion will be made by the Police at the time depending on traffic conditions in the areas. Motorists should exercise tolerance and patience, and follow the instructions of Police on site.

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## **Office of The Ombudsman announces results of two direct investigations**

The following is issued on behalf of the Office of The Ombudsman:

The Ombudsman, Ms Connie Lau, today (February 19) announced the completion of two direct investigations by the Office of The Ombudsman, namely "Government's support for non-Chinese speaking students" and "Government's handling of two trees in front of Tang Chi Ngong Building of University of Hong Kong."

## Government's support for non-Chinese speaking students

With the increase in the number of people of ethnic minorities residing in Hong Kong, the Government has in recent years introduced measures to enhance the support for non-Chinese speaking (NCS) students. Nevertheless, there have been criticisms from time to time that the Education Bureau (EDB) has not provided adequate support to cater for the needs of NCS students. In this light, The Ombudsman initiated a direct investigation to examine any inadequacies in the EDB's support for NCS students with a view to making recommendations for improvement.

The scope of this direct investigation covered:

- (1) the EDB's support and relevant measures for NCS students in learning Chinese and for creating an inclusive school environment;
- (2) the EDB's support for NCS children in applying for enrolment in kindergartens (KGs); and
- (3) the arrangements for NCS children in the allocation of Primary One places.

The Office's investigation revealed that regarding its current support measures for NCS students, the EDB should pay attention to and make improvements in the following four areas:

- (1) Support measures for primary and secondary schools should not just be on funding, but require co-ordination of various sectors and encourage school participation: The EDB has started implementing the Chinese Language Curriculum Second Language Learning Framework (Learning Framework) and its relevant support measures (Note 1) since the 2014/15 school year. It is necessary for the EDB, the education sector and related stakeholders to accumulate experience and review in a timely manner for further improvement. Moreover, in the past four school years, an average of 48 primary schools and 31 secondary schools had received support annually, but merely 24 teachers, i.e. an average of six per year, completed the relevant professional programmes. The EDB should step up its efforts in encouraging those schools to actively participate in the School-based Professional Support services. The EDB should continuously sum up the experience in implementing those measures, and strive to improve and enhance the support measures, such as strengthening the support for school administration and teacher training.
- (2) The additional funding mechanism for admission of NCS students needs review: Under the current additional funding mechanism, public sector and Direct Subsidy Scheme primary and secondary schools that offer local curriculum admitting 10 or more NCS students are granted additional funding ranging from \$800,000 to \$1.5 million per year, while those admitting nine or fewer can only apply for additional funding of \$50,000. The above additional funding mechanism shows that the difference of only one NCS student can mean a difference of 16 times in additional funding to primary and secondary schools.

(3) Inadequate support for KG admission: While the EDB has reminded KGs by such means as circulars and guidelines that they should provide enrolment application forms and other information in both Chinese and English, there have been media reports from time to time that parents of NCS students encountered communication problems due to the language barrier. The Office has looked at the websites of some KGs and found that many of them were all prepared in Chinese. Although some websites provided headings in both Chinese and English, the contents and details under the respective headings were in Chinese only. While the enrolment application form in bilingual format (Chinese and English) was available for download on some KGs' websites, the links to the form were written in Chinese, rendering it difficult for parents of NCS children to find the enrolment application forms on those websites.

(4) Discrepancy between information about Schools on the List and the actual situation: In Annex III to the Notes on How to Complete the Application Form for Admission to Primary One (Note 2), the EDB notified parents of NCS children that the schools on the list ("Schools on the List") in that Annex are "primary schools traditionally admitting more NCS students". In reality, however, certain schools outside the list have currently admitted more NCS students than some Schools on the List. The EDB has not revised the list for years since it was compiled. This may make it impossible for NCS children and their parents to get the picture of the actual situation.

The Ombudsman made the following five improvement recommendations to the EDB:

(1) to conduct prompt and regular reviews on the effectiveness of the Learning Framework, and strengthen the support for school administration and teacher training;

(2) to review the additional funding mechanism and consider increasing the subsidies for primary and secondary schools that admit fewer than 10 NCS students;

(3) to strengthen the publicity of admission information for NCS children in applying for enrolment in KGs and the communication with stakeholders;

(4) to actively inspect and check KGs' implementation of the measures promulgated by the EDB, which include the availability of English enrolment application forms and related information; and

(5) to consider whether to retain or abolish the Schools on the List mechanism.

The Office expects the EDB to continue its efforts in strengthening and enhancing the support for NCS students.

Government's handling of two trees in front of Tang Chi Ngong Building of University of Hong Kong

On May 20, 2018, the Lands Department (LandsD) removed two banyan trees located in front of Tang Chi Ngong Building of the University of Hong Kong on Bonham Road in Central and Western (C&W) District. The incident attracted

wide media coverage and public debate. Some criticised that there was impropriety on the part of the departments concerned as they had neither taken due care of the health conditions of the trees, nor sufficiently consulted relevant experts and the local community prior to the removal. In this light, The Ombudsman initiated a direct investigation to examine whether the decisions and actions of the LandsD, the Tree Management Office (TMO) of the Development Bureau (DEVB) and the Home Affairs Department (HAD) were in line with the relevant policies and procedures.

The Office's investigation revealed that the decision to remove the trees was made by the LandsD. Meanwhile, the TMO is responsible for assisting the departments concerned to conduct Sensitivity Analysis (Note 3) upon receipt of proposals from tree management departments to remove any old and valuable trees, stonewall trees or trees of particular interest. The HAD plays a supporting role and is responsible for notifying the District Council (DC), under the relevant mechanism, of any decisions to remove trees made by tree management departments, and assisting in local consultations as requested by the departments concerned.

Information showed that prior to its decision to remove the trees, the LandsD had carried out tree maintenance and made six assessments. Assessment results indicated that the health and structural conditions of the trees were deteriorating. Furthermore, the LandsD had explored different mitigation measures such as pruning, application of chemicals, cabling or propping, and even transplanting the trees, but considered that none of them could eliminate the danger of failure of the trees. The TMO agreed with the LandsD's assessments of the conditions of the trees and the feasibility of those mitigation measures. The staff concerned from the LandsD and the TMO have acquired the relevant qualifications and experience in tree management. Together with the tree experts from the Urban Forestry Advisory Panel under the DEVB, they agreed that the trees had shown problems in their health and structural conditions. The trees were in danger of failure, but there were no feasible mitigation measures. In such circumstances, the Office considered the LandsD's decision to remove the trees not unreasonable from an administrative perspective. Before removing the trees, the LandsD, the TMO and the HAD had also conducted Sensitivity Analysis and notified the C&W DC in accordance with the existing mechanism and procedures.

Nevertheless, in this incident, many people were still surprised and shocked by the removal of the trees. This reflected that the mechanism of Sensitivity Analysis was not entirely effective in achieving its purpose. While the LandsD and the TMO asserted at the relevant committee meeting of the C&W DC that it was necessary to remove the trees and proposed to do so quickly before the typhoon season, they fell short of mentioning the date of the removal works at the meeting. Yet, the removal works were taken three days after the meeting. It came as a surprise to many people. The Office reckoned that had the LandsD obtained all necessary information for determining a date for the removal works before the meeting, and then proposed with the TMO and the C&W District Office at the meeting the date for the removal works with reasons, it would have provided the meeting with prior information for detailed discussion. This would have further increased the

transparency of the whole decision making process and predictability of the removal works, and hence better handling of the incident.

The Ombudsman urged the Government to take reference from this incident. When notifying the public about tree removal in the future, it should as far as practicable provide detailed information to the public and stakeholders in an open and accountable manner, so as to further enhance the transparency of its decision-making process.

The relevant investigation reports have been uploaded to the Office of The Ombudsman website at [www.ombudsman.hk](http://www.ombudsman.hk) for public viewing.

Note 1: In the light of the continued increase of NCS students, the Government has in recent years allocated more resources to support them. In particular, additional funding of about \$200 million is earmarked every year to help public sector and Direct Subsidy Scheme primary and secondary schools offering local curriculum to implement the Chinese Language Curriculum Second Language Learning Framework and its relevant support measures, including creation of an inclusive school environment, enhancement of teacher training in teaching Chinese as a second language, and provision of professional support services for schools.

Note 2: In Annex III to the Notes on How to Complete the Application Form for Admission to Primary One, the EDB remarked, "The EDB encourages parents/guardians to choose schools with an immersed Chinese language environment to facilitate their applicant children to learn the Chinese language. Having due regard to the aforementioned, in case parents/guardians still consider that their children may have difficulties in an immersed Chinese language environment at this early stage, schools traditionally admitting more NCS students are listed below for reference, in addition to schools in the applicant children's residing school net, when filling in Part B of the Choice of Schools Forms for Central Allocation."

Note 3: The purpose of Sensitivity Analysis is to increase the transparency of decisions to remove trees, and to address the public's concerns that might arise from the Government's removal of trees.

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## **Red flag hoisted at Clear Water Bay Second Beach**

Attention TV/radio announcers:

Please broadcast the following as soon as possible:

Here is an item of interest to swimmers.



The Leisure and Cultural Services Department announced today (February 19) that due to big waves, red flag has been hoisted at Clear Water Bay Second Beach in Sai Kung District. Beach-goers are advised not to swim at the beach.