

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 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.