

Ombudsman probes Leisure and Cultural Services Department's arrangements for depositing layout plans of public pleasure grounds in Land Registry

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

The Ombudsman, Ms Winnie Chiu, today (August 14) announced a direct investigation to examine the arrangements of the Leisure and Cultural Services Department (LCSD) for depositing layout plans of public pleasure grounds in the Land Registry (LR).

Recently, there were media reports about the LCSD's failure to deposit the layout plans of some of its public pleasure grounds in the LR in accordance with the Public Health and Municipal Services Ordinance (Cap. 132) (PHMSO). As a result, the legal basis of enforcement actions by its staff and the Tobacco and Alcohol Control Office under the Department of Health in those venues was questioned, and the two departments had to suspend their enforcement actions in those venues from February 2019.

The public pleasure grounds listed in Schedule 4 of the PHMSO, which include parks, children's playgrounds, sitting-out areas, sports centres and beaches, are managed by the LCSD, and the layout plans of those venues should be deposited in the LR. Under the PHMSO, the layout plans are prepared and deposited in the LR by the Lands Department (LandsD). However, preliminary inquiry by the Office of The Ombudsman has found that as the department managing public pleasure grounds, the LCSD should initiate the gazetting procedures as required by the PHMSO when the works programme of a public pleasure ground is near completion. In addition, the LCSD should inform the LandsD for preparing and depositing the layout plans of the pleasure ground concerned.

After seeking legal advice, the LCSD had generally finished depositing the layout plans of all public pleasure grounds by June 2019 and resumed enforcement actions in all of those venues in early July. The LCSD also indicated that it would review the relevant workflow. Nevertheless, the Office of The Ombudsman considers it necessary to find out more about the reasons for the delay or omissions so that effective measures can be introduced to prevent similar omissions in future.

In this light, The Ombudsman has decided to initiate a direct investigation against the LCSD. Ms Chiu said, "The statutory procedures for depositing the layout plans of a number of public pleasure grounds have been found to be omitted. That has created serious obstacles for the departments concerned to take enforcement actions and manage the venues. To ensure that the layout plans of all public pleasure grounds will be deposited as required by law in a timely manner, this Office will examine the LCSD's workflow of

preparing and depositing layout plans, which includes its communication and collaboration with the LandsD. Where necessary, we will make recommendations for improvement to the two departments."

The Ombudsman now invites members of the public to give their views on the above topic in writing to the Office of The Ombudsman by September 15, 2019:

Address: 30/F, China Merchants Tower, Shun Tak Centre, 168-200 Connaught Road Central, Hong Kong

Fax: 2882 8149

Email: complaints@ombudsman.hk

Office of The Ombudsman announces direct investigation report on Buildings Department's implementation of Mandatory Window Inspection Scheme (with photo)

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

The Ombudsman, Ms Winnie Chiu, today (August 14) announced the completion of a direct investigation by the Office of The Ombudsman on the Buildings Department (BD)'s implementation of the Mandatory Window Inspection Scheme. The Ombudsman identified six inadequacies in the BD's implementation of the Scheme and made six recommendations for improvement.

The six inadequacies include the implementation progress being significantly below targets. When the Scheme commenced in June 2012, the BD had planned to select 5 800 target buildings for mandatory window inspection each year and the first inspection cycle was expected to complete within five years (i.e. by mid-2017). Nevertheless, the numbers of target buildings actually selected under the Scheme in 2012 and 2013 were less than 70 per cent of the estimated figures. Since 2014, the BD has significantly reduced the number of target buildings and it has stopped setting any target completion time for the first cycle of inspections. As at 2018, only 37 per cent of buildings whose age was within the scope of the Scheme had been selected as target buildings. Based on the BD's target of selecting 400 target buildings each year in 2017 and 2018, it would require almost 42 years to complete the inspection of the windows of buildings which are yet to be selected as target buildings in the first inspection cycle.

Moreover, as at March 2019, around 10 per cent of the Notices (totalling

nearly 490 000) issued between 2012 and 2018 were not complied with, and some of them were issued when the Scheme commenced. The BD had also failed to properly monitor compliance with statutory notices of the Scheme (Notices).

The BD has an audit check mechanism in place to monitor whether the Qualified Persons (QPs) and Registered Contractors (RCs) have properly carried out those tasks. However, even though the Scheme commenced in 2012, prior to 2017 the BD had not compiled any data for monitoring the audit checks carried out by its staff and whether QPs and RCs had completed the prescribed inspection and prescribed repair properly.

Among the selected cases that successfully went through site audits in 2017 and 2018, 44 per cent and 52 per cent respectively were not completed within the time frame of two months set by the BD. This showed that the time needed to complete site audits did not meet the requirements in the BD's operational guidelines.

For cases selected for site audit by the BD in 2017 and 2018, three quarters (77 per cent and 78 per cent respectively) were terminated because property owners either refused the BD's request for a site audit or did not respond to the request. Huge resources were spent on site audits, yet for very limited effectiveness. Though the BD has set a sampling ratio of 10 per cent since 2017, the percentages of actual site audits was only 2.3 per cent and 2.2 per cent respectively in 2017 and 2018, which affected the effectiveness of site audits.

While the BD did take follow-up and enforcement actions against Owners Corporations and property owners who had failed to comply with a Notice, in 142 cases in which a Notice had been served as early as 2012 but compliance was outstanding, warning letters were only issued to the owners concerned five years later. Such delays are glaring.

The Ombudsman recommended that the BD conduct a comprehensive review on the implementation of the Scheme and lay down practicable work targets so as to speed up listing buildings whose age is covered by the Scheme as target buildings. The department should monitor the compliance with Notices more proactively, and clear the backlog promptly and effectively.

Furthermore, the BD should review the need to revise the definition of the time frame set in its operational guidelines regarding the completion of site audits so as to clearly reflect the department's requirement, and remind its staff to follow up and complete site audits within the time frame specified in the operational guidelines, as well as explore measures to increase the success rate of staff gaining entry into premises for conducting site audits, so that the effectiveness of the audit check mechanism can be enhanced as a whole.

The Ombudsman also recommended the BD to adopt the rate of actual entry into premises to carry out site audits, instead of the sampling ratio, as its work benchmark to reflect the real situation of site audits, and to take timely enforcement actions against property owners who fail to comply with a Notice.

The investigation report has been uploaded to the Office of The Ombudsman website at www.ombudsman.hk for public viewing.



Red flag hoisted at Lower Cheung Sha 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 (August 14) that due to big waves, red flag has been hoisted at Lower Cheung Sha Beach in Islands District. Beach-goers are advised not to swim at the beach.

SEN to visit Sichuan

The Secretary for the Environment, Mr Wong Kam-sing, will depart for Sichuan this morning (August 14) to officiate at the graduation ceremony of the Youth Internship Programme at the province's Wolong National Nature Reserve. While there, Mr Wong will also learn more about the local conservation work of giant pandas and the programme for reintroducing pandas to the wild, as well as gather knowledge on biodiversity and the conservation of Sichuan's ecosystem.

Upon his arrival today, Mr Wong will visit the Hetaoping base of the China Conservation and Research Center for the Giant Panda in Wolong. There, he will be briefed on the Center's conservation work and the reintroduction programme of giant pandas.

Mr Wong will go to Zumushan with the youth interns tomorrow (August 15) morning to understand bird ecology and later visit the Museum of Nature and Earthquake in Wolong and the Dengsheng conservation station to understand the effectiveness of Sichuan's efforts in conserving the natural ecosystem and related outdoor research.

On the morning of August 16 (Friday), Mr Wong will officiate at the graduation ceremony of the Youth Internship Programme at the Wolong National Nature Reserve. Funded by the Government of the Hong Kong Special Administrative Region and co-organised by the Ocean Park Corporation, the programme aims to enhance the understanding of nature conservation among young participants from Hong Kong and Guangdong Province.

Also joining the visit will be Professor Lam Kin-che and Professor Nora Tam Fung-yee, who were the former Chairman of the Steering Committee for the Biodiversity Strategy and Action Plan for Hong Kong and the Convenor of the Steering Committee's Marine Biodiversity Working Group respectively, to host two thematic sharing sessions to exchange views with the youths on environment and conservation work.

Mr Wong will conclude his visit and return to Hong Kong on August 16. During his absence, the Under Secretary for the Environment, Mr Tse Chin-wan, will be the Acting Secretary for the Environment.

Territory-wide flag day today

Senior Citizen Home Safety Association has been issued a Public Subscription Permit to hold a territory-wide flag sale from 7am to 12.30pm today (August 14), a spokesman for the Social Welfare Department (SWD) said.

For enquiries, please call the SWD's hotline at 2343 2255, or the designated hotline of the 1823 Call Centre at 3142 2678. Information on flag days is available at the SWD's website (www.swd.gov.hk/en/index/site_whatsnew) and the GovHK portal (www.gov.hk/en/theme/fundraising/search). Permits for flag days containing contact information of the flag-selling organisations and information on the approved flag-selling activities have also been uploaded to the SWD's website (www.swd.gov.hk/en/index/site_pubsvc/page_controlofc/sub_recentlyap). For enquiries about the detailed flag-selling arrangements, please contact the individual flag-selling organisations.

Details of the charitable fund-raising activities covered by the Public Subscription Permit issued by the SWD have also been uploaded to the GovHK website (www.gov.hk/fundraising).

In the case of suspected fraudulent flag day activities, people should

not make any donation and should immediately report the matter to the Police, the spokesman added.