

## Summary of Investigation Report

### Complaint against Food and Environmental Hygiene Department for Improper Arrangements in Allocating Columbarium Niches

#### The Complaint

In May 2014, a citizen lodged a complaint with this Office against the Food and Environmental Hygiene Department (“FEHD”) for its improper arrangements in allocating columbarium niches (“niches”). As a result of such improper arrangements, he had not yet been allocated a niche after a long wait.

2. The story went that the complainant had applied to FEHD in September 2012 for a niche for his deceased relative in the newly completed Wo Hop Shek Kiu Tau Road Columbarium Phase V (“Wo Hop Shek”) or Diamond Hill Columbarium Extension (“Diamond Hill”). Allocation of those niches was in three phases and by ballot. Unfortunately, he was unsuccessful in the ballot of the first two phases. As FEHD had not put in place a waitlisting mechanism for the leftover niches, he had to try his luck at the ballot of Phase Three.

#### Our Findings

##### *Supply and Demand of Niches in Hong Kong*

3. According to Government statistics, the projected numbers of deaths and cremations in the territory for the next five years (i.e. 2014 to 2018) are 233,600 (around 46,720 per year on average) and 215,875 (around 43,175 per year on average) respectively. Experience shows that the public’s demand for niches provided by Government (i.e. FEHD) and the Board of Management of the Chinese Permanent Cemeteries<sup>1</sup> (“BMCPC”) is roughly equivalent to 40% of the number of cremations, in other words, around 86,350 niches provided by FEHD/BMCPC in the next five years, an average of around 17,270 niches per year.

4. Currently, there are around 213,300 niches in the eight public columbaria under FEHD and most of them have already been allocated. As at July 2014, only around 24,000 niches in Wo Hop Shek and Diamond Hill were still in the process of allocation. The four cemeteries-cum-columbaria managed by BMCPC have around 224,800 niches. Save for a small number of niches available for re-use, all have been allocated. Cemeteries operated by various religious groups provide around 126,700 niches altogether. As at November 2013, some 28,400 of those niches were in the

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<sup>1</sup> The Board of Management of the Chinese Permanent Cemeteries is a statutory non-profit-making organisation set up under the Chinese Permanent Cemeteries Ordinance (Cap. 1112). Its main purpose is to provide various kinds of burial grounds and niches for persons of the Chinese race permanently resident in Hong Kong.

process of allocation. Government does not have any figures on the number of niches provided by other private organisations.

### *Arrangements for Allocating Niches*

5. The new niches at both Wo Hop Shek and Diamond Hill were completed in 2012. Of those 45,250 new niches, 43,710 were at Wo Hop Shek and 1,540 at Diamond Hill. In September 2012, FEHD started Phase One allocation of the niches. The niches at Wo Hop Shek and Diamond Hill were put up for allocation together. The applicant was not allowed to choose between the two columbaria in the application form.

6. The niches were allocated by computer ballot. The successful applicants were assigned priority numbers, according to which they were invited to select and purchase niches. For the first two phases of allocation, FEHD had not put in place a waitlisting mechanism: all those niches not taken up by applicants were carried forward to Phase Three for re-allocation.

7. Details of each phase of niche allocation are at the **Appendix**.

8. After examining the information provided by the complainant and FEHD, this Office found the following inadequacies in the Department's niche allocation arrangements.

### *Phased Allocation Left Many Niches Vacant for Too Long*

9. The 45,000 plus completed niches were long available, but FEHD allocated them in phases over three years, and processed only about 110 applications each day. FEHD explained that its objective was to:

- (1) ensure a continuous and steady supply of niches over the years for deceased persons in each phase; and
- (2) minimise the risk of errors by allocating a small number of niches in Phase One as a pilot project to allow staff to gain experience and improve work efficiency.

10. We can understand FEHD's rationale for carrying out a small-scale pilot project initially to minimise risks and gain experience.

11. However, with FEHD's allocation-by-ballot method, applicants with family members passing away during each phase might not be those lucky enough to succeed in the ballot of that phase. The Department's intention to meet, in each phase, the needs of such applicants was just wishful thinking.

12. What we find most unreasonable is that FEHD allocated the niches in phases over three years and left niches vacant for too long: more than 24,000 niches had stayed idle for two years before they were put up for allocation in Phase Three. In fact, all 45,000 plus niches were long available. “A continuous and steady supply of niches over the years” was merely an illusion created by FEHD’s phased allocation. By not promptly allocating all the available niches, FEHD was not only turning a blind eye to the anxiety of the waiting public, but also acting against Government’s policy objective of increasing the supply of niches as soon as practicable.

13. Besides, the number of applications processed each day (i.e. 110 cases) was obviously too small.

### ***People Unsuccessful in Ballot Might Have to Wait Endlessly***

14. FEHD’s allocation of niches by computer ballot was in accordance with a recommendation of the Independent Commission Against Corruption for corruption prevention and fairness. We agree that allocation-by-ballot is a fair approach.

15. However, allocation of niches by ballot also means that some applicants may be unsuccessful in ballot time and again and have to wait endlessly for a niche. Given the current undersupply situation, there are bound to be people feeling distressed when their family members have passed away long time ago and they still cannot secure a niche for the deceased. They may resort to private columbaria, but then the legality of such columbaria and associated risks are causes for concern. FEHD should pay serious attention to this problem relating to long waiting, unfortunate applicants.

16. In our view, provision of public niches is a basic service of Government to the community. Similar to public housing and medical care, it would be more reasonable to adopt a registration system to allocate niches on a first-come, first-served basis. We believe that corruption loopholes can be avoided by careful mapping out of procedures. Even if FEHD chooses to continue allocating niches by ballot, it can certainly enhance the system by giving priorities to those applicants who have been unsuccessful in previous allocations so as to save them from waiting endlessly.

### ***No Waitlisting Mechanism and Leftover Niches Not Handled Immediately***

17. According to FEHD statistics, in this allocation exercise, 5,607 successful applicants in the first two phases did not take up a niche, representing about 20% of the total number of niches available for allocation in those two phases.

18. Clearly, the number of such applicants not taking up the niches was not insignificant. We consider that the situation was not difficult to predict. First, as FEHD’s allocation exercise took a long time, some applicants might choose to purchase niches provided by private cemeteries or organisations instead in the meantime. Second, since the niches at Wo Hop Shek and Diamond Hill were put up

for allocation together, applicants who were interested only in niches in the urban areas might not take up any niche at Wo Hop Shek when those at Diamond Hill were sold out.

19. While a waitlisting mechanism might lengthen the processing time for the first two phases, it would shorten that for Phase Three. FEHD's concern about processing time could be alleviated by putting a cap on the waiting list. The crux of the matter is that a waitlisting mechanism will help meet sooner applicants' demand for niches and their expectations, reduce the number of leftover niches in each phase, and avoid wastage of resources. Therefore, we find it desirable to have a waitlisting mechanism. FEHD should not put its own administrative convenience above public interests.

## **Conclusion**

20. Overall, The Ombudsman finds inadequacies in the niche allocation arrangements of FEHD. **The complaint was substantiated.**

## **Recommendations**

21. With an expanding and aging population, it is foreseeable that public demand for niches will continue to increase. In view of this, The Ombudsman urges FEHD to quickly review its allocation arrangements in the following directions so as to provide niches to the public in an efficient and orderly manner:

- (1) to consider allocating niches on a first-come, first-served basis and strive to resolve the problem of long waiting applicants;
- (2) even if the existing method of allocation by ballot is to remain, to enhance the arrangements, such as giving higher priorities to applicants who have been repeatedly unsuccessful in ballot, and establishing a waitlisting mechanism for speedier allocation of niches in future exercise; and
- (3) to explore ways of further streamlining the allocation procedures.

**Office of The Ombudsman  
October 2014**

**Number of Niches Allocated by FEHD in Different Phases  
and Time of Allocation**

	Phase One	Phase Two	Phase Three
Number of niches available for allocation (Wo Hop Shek and Diamond Hill)	10,742	15,562	24,474 (including niches not taken up by applicants in the first two phases)
Number of eligible applications	24,267	28,038 (including applicants not allocated a niche in Phase One)	31,342 (including applicants not allocated a niche in Phase Two)
Number of successful applicants who did not take up a niche (% of allocation)	1,765 (16%)	3,842 (25%)	Not applicable
Commencement date of application	3 September 2012	18 June 2013	24 June 2014
Completion date of allocation	8 May 2013	14 May 2014	End of 2015
Time taken	8 months	11 months	18 months