

## Executive Summary

### Direct Investigation into Government's Tree Management Regime and Practices

#### Background

Hong Kong is a densely populated city. Falling of branches or collapse of trees could easily result in injuries or damage to property in their surrounding areas. When that happens, the public would tend to blame the Government for failure in risk management; conversely, when the Government removes trees on safety grounds, it would often be criticised for not making enough efforts in tree preservation.

2. This direct investigation aims to examine the Government's tree management regime and practices with a view to identifying any inadequacies. Our focus is on the effectiveness of the Government's work to ensure public safety.

#### Our Findings

##### *Tree Management Regime*

3. Currently, trees on Government land and those on private land are regulated under different regimes.

4. The day-to-day management of trees on Government land is shared by various Government departments according to the management responsibility of the land concerned. Their duties include maintenance, inspection and risk assessment of trees. The Tree Management Office ("TMO") under the Development Bureau ("DEVB") acts as a central coordinator and oversees tree management work.

5. The Expert Panel on Tree Management ("the Expert Panel") under TMO is an advisory group made up of local and overseas tree experts. The Expert Panel advises the Government on policies on tree management and maintenance as well as the implementation of those policies.

6. As regards trees on private land, only some land leases contain a tree preservation clause, which stipulates that, unless there is an emergency, the land owner must obtain written consent from the Lands Department ("Lands D") before he/she can remove or prune any tree within the land boundary.

## ***Manpower Issues in Tree Management***

### Lack of Registration System for Arborists

7. Landscape architects and arborists are the major professional practitioners in tree management.

8. In Hong Kong, accreditation of landscape architects' professional qualifications is governed by the Landscape Architects Registration Ordinance. That Ordinance empowers the Landscape Architects Registration Board to verify the qualifications of applicants for registration as landscape architects and to deal with the conduct and disciplinary matters of registered landscape architects. That registration system aims to maintain the professional standards in the field as well as to safeguard the rights and interests of organisations/individuals who engage the services of registered landscape architects. Arborists, however, do not have any registration system in Hong Kong. There is no avenue for the public to make a complaint against arborists in case of poor quality of service or misconduct.

### No Specific Entry Requirements for Arboricultural Practitioners

9. The expertise and work experience of practitioners who conduct inspections and review inspections are crucial for the prompt and accurate identification of trees that are problematic or at risk of collapse. However, the Government merely requires those practitioners to meet some basic standards in these two aspects. Besides, the relevant training programmes offered by TMO are only two-day courses. It is doubtful whether practitioners who just meet such basic requirements are really capable of conducting proper tree inspection work.

10. As frontline practitioners are responsible for routine tree maintenance work such as pruning, prevention and treatment of insect, pests and diseases, and fertiliser application, their work quality has direct and significant bearing on the health condition of trees. Our investigation has found that those practitioners do not need to meet specific requirements of qualifications or work experience before they take up their jobs.

### Manpower Resources Planning for Tree Management Being Long Overdue

11. TMO has organised training courses for Government employees responsible for tree management and also encouraged tertiary and training institutions to offer tree management programmes. However, it was not until mid-2015 that TMO started to study the manpower resources for tree management in Hong Kong for long-term planning purposes. We consider that long overdue.

## *Issues Regarding Management of Trees on Government Land*

### Deployment of Officers for Tree Management Resulting in Wastage of Experience

12. Currently, within the civil service, there is not a dedicated grade of officers responsible for tree management. The work is carried out by officers who are also responsible for other tasks (for example, the Leisure Services Managers in the Leisure and Cultural Services Department). Officers in those grades are often deployed to posts not quite related to tree management, resulting in wastage of professional knowledge and experience. That is not conducive to tree management work, (including supervision of contractors), which requires specialised knowledge and expertise.

### Need for TMO to Enhance Monitoring Work of Government Departments

13. When planting trees, it is essential for Government departments to select the right species and planting locations with adequate growing space for the trees. All these factors have a direct impact on the well-being of the trees and their safety in the future.

14. We consider that while the various departments responsible for tree management duties are not hierarchically under TMO, the Office should enhance its communication with them. It should require the departments concerned to properly carry out their duties and monitor their performance in scrutinising the landscape design at the planning stage of works projects and following the DEVB guidelines in selecting the right tree species and planting locations to prevent tree collapse and obviate the need for hasty removal of dangerous trees in the future.

### Inadequate Criteria for Risk Assessment

15. We also find it necessary for TMO to revise the criteria adopted in its “Form 2” designed for conducting risk assessment of tree. The incident of the collapse of a stonewall tree on Bonham Road on 22 July 2015 has shown that while the condition of a tree itself and its growing environment are separately recorded in “Form 2”, the assessment criteria in “Form 2” have not taken into account the combined risk factors caused by the two together (for example, whether the weight of the tree itself plus external loading can cause a problem).

### TMO’s Failure to Effectively Oversee Government Departments’ Actions on Public Complaints/Reports

16. We are always very much concerned about whether Government departments and their contractors respond quickly to public reports of hazardous trees. In the three cases we cited, there was serious delay on the part of both Lands D and its contractors in handling reports by the public. While it is the responsibility of the departments concerned to act on public complaints/reports about dangerous trees, TMO, being the

central body for regulating and coordinating the tree management work of various departments, should certainly step up its monitoring of their performance in this regard. TMO may even consider positioning itself as the reviewing body for any inadequacies in Government departments' handling of public complaints/reports, thereby directing them to take appropriate improvement measures.

#### Need to Enhance the Expert Panel's Transparency and Accountability

17. DEVB has set up the Expert Panel under TMO to take account of opinions from independent professionals on matters relating to tree management. To enhance its transparency and accountability, we consider that DEVB should keep proper records of the opinions from the Expert Panel/Panel members and make them available to the public.

#### **Lack of Legislation and Limited Regulation for Management of Trees on Private Land**

18. Compared with trees on Government Land, the regulation of trees on private land appears to be even more inadequate. Even for those private leases that contain a tree preservation clause, it is outside the regulatory scope of the clause as to whether and how the owners have maintained their trees. There is also no law at present to require owners of private land to inspect and maintain the trees within their property. In other words, currently, the Government has no power to intervene even if the land owners have not properly maintained their trees to mitigate the risk of tree collapse. Even if a problematic tree is found, the Government generally can only ask Lands D to advise the owner to adopt appropriate measures to mitigate the risk. If the owner refuses to cooperate, the problematic tree will continue to exist, with the risk increasing with time.

19. Cases have shown that tree collapse on private land as a result of improper management can have very serious consequences.

#### **Necessity of Legislation on Tree Management**

20. Tree legislation in other jurisdictions and related information indicate that tree management laws could help cope with certain tree management problems in Hong Kong, for example, formulating basic criteria for planting, pruning and removal of trees, conferring powers on government authorities to make it compulsory for private land owners to prune or remove dangerous trees on their land, requiring specific works relating to tree care and other tree management aspects to be carried out, as well as publishing the names of approved training providers and training courses on tree management.

21. It is already an integral part of Government policy to promote professional and quality tree management. And it is clear that the public has high hopes for the Government to strengthen tree management to prevent injuries or fatalities caused by tree collapse. We consider that the Government should promulgate its intention to introduce tree legislation to remedy the inadequacies of the current regulatory regime. The Government cannot just rely on giving the public education/advice/guidance, as that is unlikely to be able to achieve in the foreseeable future what society wants. Besides, studying for and drafting of legislation take time. The Government should, without further ado, start the necessary preparations. Once its intention to legislate is promulgated, that may help change the public's mindset and heighten their awareness of tree management responsibility. Moreover, business opportunities, and hence job openings relating to tree management, will emerge in the market as a result. This will in turn help nurture professionals and practitioners in the field to meet future demand for manpower resources after the enactment of legislation.

22. Meanwhile, when making preparations for legislation, the Government can consider further enhancing the status of the Expert Panel, as well as its participation and accountability. For instance, it can, based on the model of the Antiquities Advisory Board, convert the Expert Panel into a statutory body as part of the proposed tree legislation, thus enabling the Expert Panel to provide the Government with more authoritative and representative opinions.

## **Recommendations**

23. In the light of the above findings, The Ombudsman urges DEVB/TMO to:

### *Manpower Resources*

- (1) consider setting up a registration or certification system for arborists;
- (2) raise the professional knowledge and work experience requirements of arboricultural practitioners, especially those responsible for inspection and review inspections;
- (3) step up technical training for frontline staff;
- (4) speed up manpower resources planning;

### *Management of Trees on Government Land*

- (5) review the current deployment and training arrangements for staff with tree management duties, or even consider central deployment of dedicated tree management officers to various departments;

- (6) step up the monitoring of tree planting arrangements of Government departments;
- (7) supplement the criteria for tree risk assessment;
- (8) set up a mechanism to strengthen the monitoring of Government departments' handling of public complaints/reports;
- (9) enhance the transparency and accountability of the opinions offered by the Expert Panel, record the opinions of the Expert Panel/Panel members and make such records available to the public;

*Management of Trees on Private Land*

- (10) continue to step up publicity and education on tree maintenance for owners of private land;

*Legislation on Trees*

- (11) clearly and firmly promulgate its intention to legislate and complete the necessary preparations as soon as possible to form a basis for such legislation for comprehensive and more effective regulation of tree management and preservation in Hong Kong.

**Office of The Ombudsman  
June 2016**