

CASE SUMMARY

Complaint against the Electrical & Mechanical Services Department and the Highways Department for mishandling a claim for repair cost against the complainant in respect of a traffic accident involving government properties

The Complaint

The complainant was involved in a traffic accident causing damages to some government properties in 1994. He was afterwards demanded by the Government to pay a sum of money for the damages which he had settled accordingly. In October 1997, the complainant received a letter from the Electrical & Mechanical Services Department (EMSD) claiming that a letter had been sent to him three months ago demanding payment of the cost for repairing the damages arising from the accident in 1994. The complainant considered that it was unfair for the EMSD to make a claim against him nearly three years after the event as he would not be able to confirm whether he had settled the payment before. While he did settle the latest bill issued by the EMSD, he complained to The Ombudsman.

2. As initial examination of the case revealed that the Highways Department (HyD) was also involved, an investigation involving both the EMSD and the HyD was conducted.

Findings and Conclusion

3. This Office observed that the Police issued the traffic accident report on 23 October 1994 and the HyD opened the case file on 27 April 1995. As there was no date chop on the accident report, it was unable to ascertain the exact time taken to open the case file. However, this Office considered that it was unreasonable for the HyD to spend more than six months to open the case file, as its normal practice was to take about one

month to open a case file upon receipt of the traffic accident report. While the HyD had informed the complainant on 28 July 1995 of the amount of claim demanded by the HyD, it had not advised the complainant that the cost merely covered part of the repair work and further claims might be demanded by other departments separately. It thus gave the complainant the impression that the repair cost demanded by the HyD was the full cost to be recovered by the Government. The whole matter could have been settled at an earlier stage if the HyD had copied the traffic accident report to the EMSD right after receiving it.

4. The EMSD received the traffic accident report from the HyD on 28 July 1995 and notified the complainant on 24 October 1995 of his liability for the damage to a belisha beacon. The case file was then returned to the clerical staff for clarifying the discrepancies between the manual and computer records on the time spent on the repair work. However, the file was mislaid since early 1996 and was only retrieved in May 1997 when the EMSD conducted a thorough search on all outstanding cases for damages caused by traffic accidents which took place before 1 August 1996. Staff changes and the heavy workload arising from the re-organization of the EMSD upon implementation of the Trading Fund on 1 August 1996 hampered the staff from taking prompt action to clear the backlog. Upon finalizing the repair cost, a letter was sent to the complainant on 29 July 1997 notifying him of the amount to be recovered from him, and a reminder was issued on 20 October 1997. In the light of the above information, this Office considered that the EMSD could have taken earlier action to settle the case after receiving the traffic accident report from the HyD.

5. All points considered, The Ombudsman concluded that the complaint against the HyD and the EMSD was substantiated.

6. The two departments had taken steps to prevent recurrence of similar incidents. The HyD planned to modify the checklist for staff handling claims for damages to government properties, and the staff were reminded to put a date chop on every traffic accident report received to properly record the date of receipt. A statement would also be added in the standard letter to advise the driver/car owner that further cost of repair may be demanded by other relevant departments separately.

7. The EMSD had introduced the manual log books for bring-up cases and assigned staff to look after the system. All case files are kept in cabinets in sequential order and

categorized by the status of progress. The officer handling traffic accident claims is responsible for the safe-keeping of the case files. The movement of such files will be registered and monthly progress reports will be produced for monitoring by senior officers. Periodic audits of the files will also be conducted to ensure no mislaying of files and no delay in processing.

Recommendations

8. Further to the above measures taken by the departments, The Ombudsman made the following recommendations:

- (a) the HyD to forward a copy of the traffic accident report upon receipt from the Police to other departments which are or likely to be involved in processing the claims for damages. The HyD and EMSD were also recommended to look into the measures to improve the coordination between them and review the situation regularly; and
- (b) a breakdown of the repair costs with the necessary explanation be listed in the demand notes to avoid unnecessary misunderstanding.

Response from the Departments

9. The Director of Electrical & Mechanical Services had no comment on the conclusion and recommendations of the report.

10. The Director of Highways opined that there was no evidence to show where the delay had occurred as it was not sure how long after the accident was the report received nor how long after the receipt of the report was the case file opened.

Final Remarks

11. The Ombudsman considered that the delay in opening the case file had caused delay in taking follow-up action on the case. The main issue was the delay in taking

action rather than how long it had been delayed. The sequence of events showed that there was delay in opening the case file and the presence or absence of a date chop had no implication on such finding. The Ombudsman concluded that the findings and recommendations of the report should stand.

12. The Ombudsman is pleased to know that the HyD and EMSD have taken the following measures and fully implemented the recommendations:

- (a) procedures have been established in respect of the claim coordination process and the HyD has introduced a new checklist; for traffic accidents involving damages to equipment which are maintained by the EMSD, the HyD will forward a copy of the Police traffic accident report to the EMSD at the earliest possible time; and
- (b) the HyD has included a statement in the standard letter to the driver/car owner to clarify that further costs of repair may be demanded by other relevant departments separately; a breakdown of the repair costs with the necessary explanation will also be included in the demand notes.

Office of The Ombudsman

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