

Summary of Investigation Report

Complaint against Agriculture, Fisheries and Conservation Department for Failure to Discharge Its Duties to Properly Handle Stray Cat Nuisance

Details of Complaint

In mid-May 2010, the complainant complained to the Agriculture, Fisheries and Conservation Department (“AFCD”) about stray cats roaming the locality where she lived (“the Locality”), causing environmental hygiene nuisance. Since an animal welfare organisation (“the Organisation”) was running several “zones” under its “Cat Colony Care Programme” (“CCCP”) in the Locality, AFCD referred the case to the Organisation for follow-up action. Afterwards, the complainant expressed her dissatisfaction to AFCD repeatedly and requested that AFCD capture the stray cats and provide her with details regarding the captures. However, AFCD never gave her a clear reply and only advised her to contact the Organisation direct.

2. The complainant considered that AFCD had failed to discharge its duties of capturing stray cats and had shifted the responsibility to the Organisation. It had allowed the Organisation to run CCCP and abandon cats in the Locality, causing environmental hygiene problems. She also alleged that AFCD had passed the work of clearing up cat faeces in the street and in playgrounds in the Locality to the Food and Environmental Hygiene Department (“FEHD”) and the Leisure and Cultural Services Department (“LCSD”). She, therefore, lodged a complaint with this Office.

CCCP

3. In 2000, the Organisation started to launch CCCP in various localities in Hong Kong. The Programme aims at improving the life and health of stray cats and eventually stabilising and reducing their population by way of “Trap, Neuter and Return (to where they were trapped)” (“TNR”). Volunteers, known as carers, are recruited under the Programme. Apart from feeding and taking care of stray cats in their zones of responsibility, carers capture and take them to the Organisation for de-sexing. De-sexed cats are microchipped and have one of their ears “tipped” as identification. As at December 2011, there were about 1,200 CCCP zones in the territory and several of them were within the Locality.

Response from AFCD

4. AFCD explained that upon receipt of complaints about stray cat nuisance, its staff would capture the stray cats pursuant to section 2 of the Pounds Ordinance, Cap. 168. Environmental hygiene problems caused by the cats are the responsibility of FEHD. Complaints involving stray cats within CCCP zones would be referred to the Organisation for handling. AFCD staff would conduct site inspections and capture stray cats outside the zones in question.

5. At present, the law does not stipulate any rules governing the keeping, feeding, capturing and neutering of cats. Therefore, it could be said that CCCP would not need the approval, permission or monitoring of AFCD. However, the Department supported the Programme in principle and played an assisting role. For example, it would return microchipped cats that have been captured to the Organisation.

6. AFCD and the Organisation drew up the “Basic Criteria and Requirements” for CCCP in 2005. The document stated that complaints received by AFCD about stray cat nuisance within CCCP zones would be referred to the Organisation for follow-up action. AFCD normally would not enter those zones to capture cats there. Carers were required to handle and solve the environmental hygiene problems arising from CCCP within their zones.

7. AFCD had referred the complainant’s case to the Organisation and FEHD. Its staff had also conducted site inspections in the Locality at different times of the day. Some stray cats that had been “ear-tipped” were spotted and stray cats that roamed outside the zones were captured. Nevertheless, AFCD considered that the Organisation had failed to handle this complaint properly as cats not “ear-tipped” had still been found in a CCCP zone in the Locality. AFCD, therefore, notified the Organisation in July 2010 that it would no longer endorse the CCCP in that zone. It also asked FEHD to step up site inspections in that zone. As at February 2011, AFCD staff had conducted 30 site inspections in the vicinity and captured 17 stray cats.

8. AFCD asserted that it had asked the Organisation to provide information and data for assessing the effectiveness of CCCP, but the data it received were not

detailed enough or sufficient. A comprehensive review, therefore, had not been possible.

Findings and Comments

9. The Organisation stated that in 2002, AFCD agreed and indicated its support to CCCP. In June 2006, representatives from both the Organisation and AFCD attended a meeting of the local District Council (“DC”) to explain the objectives and operations of CCCP. The Organisation would follow up complaints about stray cat nuisance referred by AFCD and notify the latter of its investigation results. It would also provide AFCD with the information and data requested. The Organisation did not accept AFCD’s view that it had failed to handle this complaint properly and manage CCCP effectively in a zone in the Locality. It estimated that as at April 2011, the number of stray cats in the Locality had decreased by more than 40%.

10. Our investigation found that there were cats kept by shop owners as well as stray cats in the Locality. Some people other than CCCP carers were also feeding cats there. Consequently, the environmental nuisance caused by cats should not be attributed solely to CCCP. Nevertheless, as it was difficult for ordinary people to distinguish domestic cats from stray cats or CCCP carers from other cat feeders, the complainant’s dissatisfaction with AFCD for allowing the Organisation to run CCCP in the Locality was understandable.

11. CCCP in the Locality started in 2005. However, AFCD never reviewed or assessed its effectiveness during the past five to six years. In a document submitted to the local DC in May 2006, AFCD stated clearly that it “had always supported CCCP (run by the Organisation in the Locality).” Furthermore, the chairman of a DC committee had, at a meeting held in October 2006 discussing related matters, requested that AFCD and the Organisation submit a review report nine months after implementation of a pilot scheme in the Locality on TNR. Nonetheless, the DC Secretariat had never received such a review report. Obviously, AFCD had not discharged its duties of handling stray animals conscientiously.

12. Our investigation also found that the Organisation received Government subsidy every year through AFCD for the promotion of animal welfare. Over the last three financial years, 200,000 (i.e. about 32.9%) of the subsidy was spent on CCCP

each year. We consider that AFCD actually played an important role in CCCP. It had the duty to monitor the proper and effective use of the public funds spent on CCCP. When it claimed that it only played an “assisting” role in CCCP and had “no obligation to approve, permit or monitor” the Programme, it was shirking its responsibilities.

13. As regards complaint handling, the complaint was lodged with AFCD. The Department, therefore, had the duty to reply to the complainant direct. However, it only referred the case to the Organisation and asked the complainant to contact the Organisation on her own. It stayed out of the matter and did not bother to find out whether the problem had been properly dealt with. Such indifferent attitude was improper.

14. AFCD had not monitored or reviewed the effectiveness of CCCP and had been indifferent to its progress and apathetic about the complaints generated. It had never pointed out specifically to the Organisation the kind of information it had to submit for review and assessment of the Programme, nor monitored how the Organisation used public funds to run the Programme. This was dereliction of duty from an administrative point of view.

15. Overall, the failure of CCCP in the Locality was attributable to inadequate monitoring by AFCD. The issues involved in this complaint were complicated and the departments concerned included also FEHD and LCSD. Neither FEHD nor LCSD had participated in the Programme, although they did not consider AFCD to have shifted the responsibility of cleaning up cat faeces to them. We consider that AFCD must fulfil its obligation to monitor CCCP properly, work closely with the other relevant departments and animal welfare organisations and step up publicity and public education in order to resolve the cat nuisance problem completely.

16. AFCD had proposed some improvement measures in February 2011, such as to discuss with the Organisation about monitoring of CCCP and complaint handling as well as to amend the “Basic Criteria and Requirements”. It had also intended to ask the Organisation to submit relevant data on CCCP regularly for assessment of the effectiveness of the Programme. However, in July 2011, it suddenly changed its mind, claiming that CCCP was no longer listed in the Organisation’s application for subvention for the year 2011/12 and that therefore it would stop subsidising the Programme. Besides, the Department would no longer have the power to ask the Organisation for any details of CCCP. Accordingly, a review of the Programme’s effectiveness would be unnecessary. We found AFCD’s abrupt change of decision

regarding the Programme in less than six months surprising. Furthermore, AFCD, pleading its heavy workload and that communication with the Organisation was mainly by telephone, was unable to provide us with any documents or records in support of its change of decision. We consider that the Department was either trying to cover its error or very poor in its office administration.

17. We found that the Organisation, in its application to AFCD for subvention, only replaced the item “CCCP” with “controlling the population of stray animals” while the theme of the item remained to “trap and neuter”. Moreover, in the Policy Address published in October 2011, the Administration stated that it would help (animal welfare organisations) implement TNR trial programmes and consult relevant DCs on this matter. Obviously, experimenting with the TNR strategy was still a Government policy objective in the handling of stray animals. AFCD also claimed that, in approving applications by animal welfare organisations for subvention, it would consider each application on its own merits and see if it was in line with prevailing Government policy. Against such a background, AFCD’s sudden stoppage of subsidising CCCP, a TNR programme, appeared to be running counter to the above said Government policy. Had AFCD started monitoring and reviewing CCCP some years ago, it would have accumulated valuable experience and useful data to support the implementation of the Government policy.

18. AFCD failed to discharge its statutory duties to manage stray animals and abate environmental hygiene nuisance to the public. Nor did it proactively tackle CCCP-related complaints or properly monitor CCCP to ensure that the Programme could fulfil its objective of stabilising and reducing the population of stray cats. Its performance had been perfunctory. We could not accept AFCD’s indifferent attitude towards assessing and reviewing the Programme.

19. Overall, The Ombudsman considers the complaint substantiated.

Recommendations

20. The Ombudsman recommended that AFCD:

- (1) conduct a comprehensive review of the effectiveness and future direction of CCCP as soon as possible;

- (2) review the handling procedures of CCCP-related complaints and formulate improvement measures;
- (3) strengthen communication and cooperation with the Organisation regarding CCCP and clarify the kinds of data and information required for assessing the effectiveness of the Programme; and
- (4) step up publicity and public education targeting pet owners in the Locality.

Office of The Ombudsman
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