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Office of The Ombudsman*



*Direct Investigation Report
Method of Calculation of Waiting Time
for Public Rental Housing and Release of Information*

The Ombudsman has completed a direct investigation into the method of calculation of waiting time for public rental housing (“PRH”) and release of information. At present, the average waiting time (“AWT”) for general applicants released regularly by the Housing Department (“HD”) covers those families and elderly one-person applicants who are accorded “priority” arrangement, as well as applicants from ordinary families who are not given any priority. HD’s calculation of the AWT for general applicants is too generalised to fully reflect the real situation. In the absence of other supplementary information, applicants (especially those applicants from ordinary families who are not given any “priority” arrangement) may be misled by the over-generalised average data. Moreover, The Ombudsman notes that HD has been conducting a yearly analysis of the housing situation of applicants on the Waiting List. We believe that a little compilation work would turn the information in the analysis report into useful reference for applicants on the crucial factors that may affect their waiting time.



The Ombudsman recommends that HD release the AWT for different types of PRH applicants and make an extra effort in providing applicants with more useful information. Nevertheless, HD has cited various reasons and refused to do so. We find HD’s explanations and attitude undesirable, and urges the Department to re-examine and reconsider our recommendations in the spirit of openness and accountability.

The executive summary of the investigation report is at **Annex 1**.

Direct Investigation Report Management of Permitted Burial Grounds

A direct investigation by The Ombudsman has found that management of the Permitted Burial Grounds for indigenous villagers is less than satisfactory. Five major problems have been identified:

- (1) unclear responsibilities and divided authority;
- (2) loose conditions of the Burial Certificate –
 - (a) no verification of burial locations;
 - (b) no restriction on the size of burial site;
 - (c) no checks on compliance with the conditions of the Burial Certificate;
- (3) lax enforcement against illegal burials;
- (4) little control over grave construction works, thus affecting the ecology of conservation zones; and
- (5) lack of long-term planning.



In view of the above inadequacies, The Ombudsman has made six recommendations for improvement to the Home Affairs Department, the Lands Department, the Food and Environmental Hygiene Department, the Agriculture, Fisheries and Conservation Department and the Water Supplies Department.

The executive summary of the investigation report is at **Annex 2**.

Enquiries



For press enquiries, please contact Ms Kathleen Chan, Senior Manager (External Relations) at 2629 0565 or by email kathleenchan@ombudsman.hk.

**Office of The Ombudsman
10 December 2015**

Executive Summary

Direct Investigation into Method of Calculation of Waiting Time for Public Rental Housing and Release of Information

Background

Public rental housing (“PRH”) is Government subsidised housing provided to citizens who cannot afford private rental accommodation. In recent years, the increasing number of PRH applications and the prolonged waiting time has become a matter of considerable public concern.

2. Over the years, the Government’s target has been to maintain the waiting time at around three years for general applicants¹. This target of “housing allocation within three years” has gradually formed the basis of public expectation. The data provided by the Hong Kong Housing Authority (“HKHA”) show that the Average Waiting Time (“AWT”) for general applicants has maintained at around three years in the past few years. However, the Office of The Ombudsman has received from time to time complaints about not getting an allocation after waiting for more than three years. Moreover, in handling individual complaint cases, we noticed that the waiting time for some applicants have far exceeded three years. As such, The Ombudsman decided to initiate a direct investigation into the method of calculation of waiting time for PRH and the release of information by the Housing Department (“HD”), the executive arm of HKHA.

Targets for Waiting Time for General Applicants

3. In line with the Government policy objectives and to monitor the effectiveness of PRH allocation, HKHA has set the targets for waiting time for general applicants at three years and for those elderly one-person applicants among them at two years.

Defining and Deriving the AWT and Release of Information

4. According to HKHA/HD, waiting time refers to the time taken from the date on which an application for PRH is registered to the first flat offer made to the applicant. The AWT for general applicants refers to the average of the waiting time for family applicants and those elderly one-person applicants housed to PRH in the past 12 months. Within five weeks after each quarter, HD releases the latest AWT for general applicants and for those elderly one-person applicants among them.

¹ General applicants include: (1) family applicants; and (2) elderly one-person applicants.

5. General applicants actually cover the following five types of applications:
- (1) Ordinary Families;
 - (2) Single Elderly Persons Priority Scheme (i.e. applications by elderly one-person applicants);
 - (3) Elderly Persons Priority Scheme;
 - (4) Harmonious Families Priority Scheme; and
 - (5) Express Flat Allocation Scheme.

6. For Type (1), Ordinary Families, there is no “priority” or “express” arrangement in the allocation of PRH. Yet, the AWT for general applicants released by HD covers all the five types.

7. Moreover, HD provides an update on the Allocation Status on the 15th day of each month for public information. The Allocation Status shows the approximate highest numbers of PRH applications under vetting and of those that have accepted flat offers. Since 2011, HD has also conducted a yearly analysis of the housing situation of general applicants and submit a report to the Subsidised Housing Committee (“SHC”) of HKHA for deliberation. The report, which can be found in HKHA’s Paper Library, includes information such as the distribution of waiting time calculated on the basis of family size and selected district, and the supply of PRH units.

Our Findings and Recommendations

HD unwilling to break down and provide AWT for different types of applicants

8. HD includes all the five types of applications in calculating the AWT for general applicants. However, each type of applications is accorded a different priority. We believe that if Types (2) to (5), which are applications with “priority”/“express” arrangement, are to be excluded from the calculation, the AWT for Ordinary Families will be longer than the overall AWT released by HD.

9. During our investigation, we have suggested that HD provide the AWT for each type of applicants. If there is any difficulty in doing so, HD should at least provide the AWT for those family applicants after excluding those elderly one-person applicants. We have also requested HD to provide the AWT data for each type of general applicants so that the AWT for Ordinary Families can be derived after excluding the elderly one-person applicants and those “Priority” and “Express” schemes. However, HD could not provide such data.

10. We consider that HD’s calculation is too generalised and the AWT provided for general applicants cannot reflect the real situation. In particular, such information can easily mislead applicants from Ordinary Families, and may attract complaints and criticisms of creating a false image of “housing allocation within three years”.

HD unwilling to release more information on PRH waiting time

11. HD is in possession of some crucial data on various factors affecting the waiting time, such as applicants' district choice, their household size and the forecast supply of PRH units (see **para. 7** above). While such information is not confidential, the general public or PRH applicants may not know where to obtain the information, nor will they all read the housing situation analysis report in detail. Therefore, during our investigation process, we have suggested that HD make an extra effort by collating the key information and releasing it through publicity channels after completing the analysis report every year.

HD unwilling to publish information on second and third flat offers

12. HKHA has not set any target regarding the waiting time for valid allocation of the second and third flat offers. In one complaint case received by this Office, we note that the applicant received the first offer within three years, which is in line with the allocation target. However, after refusing the offer without "acceptable reasons", the applicant was yet to receive the second offer after having waited another two years and five months. Overall, the applicant had already been waiting for nearly four years.

13. The waiting time may be prolonged if the applicants refuse a flat offer without "acceptable reasons". In deciding whether or not to accept the first offer, if the applicants are fully aware that no target is set for the waiting time of the second and third flat offers, and that they may need to wait a certain period of time before getting the next offer, they would then think more seriously before they refuse the first offer. Therefore, we consider that HD should state in its publicity materials on PRH application that there are no waiting time targets for the second and third flat offers. HD should also provide the AWT in the past year for the second and third offers as far as possible for applicants' reference.

HD's Comments and Our Responses

HD unwilling to break down and provide AWT for different types of applicants

14. HD has explained that since HKHA only sets AWT targets for general applicants and those elderly one-person applicants, the AWT should be published on an overall basis (i.e. covering Types (1) to (5) in **para. 5** above) for assessing whether it can meet the target of "housing allocation within three years".

15. For PRH applicants registered on the Waiting List but are yet to receive an offer, HD reckons that it is difficult to estimate how long they still have to wait because PRH allocation is subject to a variety of factors, including the number of applications made by families of the same size within their selected districts, the supply of newly built and renovated PRH units in different districts, and whether applicants with higher priority on the Waiting List accept their allocated flats. HD considers that the latest allocation

status updated on the 15th day of each month will probably be more useful to the applicants. HD also stresses that the AWT is an average figure. So it is inevitable that some PRH applicants have to wait longer than the average time, while some others may just have a shorter wait.

16. In our view, if HD merely provides a generalised, overall AWT figure, applicants can only assess their own cases using that figure. Where there is a discrepancy between their “expectation” and the real situation, they will naturally feel aggrieved. We have received from time to time public complaints alleging that HD has failed to adhere to its pledge of “housing allocation within three years”, such that they are not allocated a PRH unit after prolonged waiting. In some complaint cases, the complainants were yet to receive the first offer after waiting more than seven years. Without realizing the real meaning of the so-called AWT, PRH applicants will inevitably feel indignant when there is no sign of allocation after waiting more than three years. Their complaints are indeed understandable.

17. We have reservations about HD’s reluctance to break down and provide the AWT for different types of general applicants. As a matter of fact, all applicants are anxious to know, or at least have some idea about, when they can be allocated a PRH unit. The AWT for different types of applicants can better reflect the real situation, providing useful reference for PRH applicants, especially those applicants from Ordinary Families who have no benefits from any “Priority” or “Express” schemes to plan for their own housing arrangements.

HD unwilling to release more information on PRH waiting time

18. HD indicates that the Analysis of Housing Situation of General Applicants for PRH (“the Analysis Report”) is only intended for discussion at the SHC of HKHA, not for applicants on the Waiting List to estimate their waiting time. Besides, the overall situation of PRH applicants is ever-changing. For instance, some applicants may change the number of family members or their selected district while waiting for an allocation, while some applicants may have their applications cancelled at the stage of detailed vetting because their income level exceeds the prescribed limit. Moreover, there are constantly new applicants being added to the Waiting List and existing applicants being removed from the List upon housing allocation. As the analysis is conducted only once a year, it cannot reflect the latest situation. As such, HD considers that the information in the Analysis Report may not help PRH applicants to make decisions most favourable to them.

19. Furthermore, HD considers that the trends reflected in the past data may not be indicative of the future. If the Department is to derive separately an AWT for each type of PRH applicants, the applicants may then be misled and try to change their household size, selected district, etc. In case such changes eventually prolong their waiting time, the applicants will be in a more disadvantageous position.

20. This Office cannot agree with HD's argument that such information may not be useful to PRH applicants. Even if the data merely reflect the trend of the year past and are not indicative of the future, it does not mean that they are of no reference value. As a matter of fact, many plans are made with past trends as important reference. Besides, an open and accountable government would never cite "the information may not be useful to the public" as a reason for refusing to release information. We cannot see how the information would mislead PRH applicants either. If HD is worried about any possible misunderstanding that may arise, it can add explanatory notes to such information when it is released. In short, HD's refusal to make an extra effort is in conflict with the Government's spirit and endeavours in maintaining openness and transparency and that is undesirable.

HD unwilling to publish information on second and third flat offers

21. HD points out that while eligible PRH applicants can have three chances of allocation, they are actually given the opportunity for housing on the first flat offer. Whether or not to accept an offer is strictly a personal decision of the applicant and beyond HD's control. On the other hand, when an applicant who has rejected a previous flat offer will get another offer depends on a number of factors (see **para. 15** above). Owing to the different circumstances of individual applicants, their time of getting another offer may vary greatly. As such, HD considers that the AWT data concerning the second or third flat offers would be of little reference value to PRH applicants.

22. This Office, however, is of the opinion that release of information on the second and third flat offers should be useful in helping applicants to make a serious and prudent decision on receiving the first offer.

Our Final Comments and Recommendations

23. This Office has examined from an administrative point of view the question of transparency in HD's calculation of the waiting time for PRH applicants. This issue coincides with one of the topics covered in the Director of Audit's Report No. 61 issued by the Audit Commission in October 2013, and our conclusion is similar to that in the Report, i.e. HD lacks transparency in its release of information concerning PRH waiting time. The information mentioned above can help PRH applicants to understand better the operation of the Waiting List and can, therefore, help reduce complaints and grievances resulting from prolonged waiting time. HD should, in the spirit of openness and accountability, release such AWT-related information as far as possible. We would consider it really misleading to PRH applicants if HD insists on releasing overall data that cover all types of applicants simply for assessing whether its target of "housing allocation within three years" can be met.

24. In the light of the above, The Ombudsman recommends that HD re-examine its justifications for non-disclosure of further information with regard to the following areas and submit the results to HKHA for further deliberation:

- (1) to calculate separately and provide an AWT for each of the different types of applicants (see **para. 5** above). If this cannot be done in one move, HD should at least calculate and provide the AWT for other family applicants after excluding those elderly one-person applicants. The information thus derived would then be more practical and realistic. Relevant stakeholders (e.g. PRH applicants) should be consulted where warranted;
- (2) to collate the information mentioned in **para. 7** above concerning the distribution of waiting time calculated on the basis of family size and selected district, and the supply of PRH units as contained in the Analysis Report. The information should be uploaded to the “Flat Application” webpage for public reference; and
- (3) to explain in the Application Guide for PRH that there are no waiting time targets for the second and third flat offers. AWT data for the second and third offers of the past year should also be provided as far as practicable.

Office of The Ombudsman
December 2015

Executive Summary

Direct Investigation on Management of Permitted Burial Grounds

Background

The custom of hillside burial of indigenous villagers of the New Territories has a long history. In 1983, the Government introduced the “hillside burial policy” (“the Policy”) and designated about 520 Permitted Burial Grounds (“PBGs”) on various pieces of Government land for burial of deceased indigenous villagers of the New Territories. The land totals some 4,000 hectares (about half the size of Hong Kong Island). The Policy aims to uphold the traditional rights and interests of indigenous villagers and to curb the problem of hillside burial of non-indigenous residents.

2. The Policy is jointly implemented by several Government departments in accordance with their respective jurisdictions. These departments include the Home Affairs Department (“HAD”), the Lands Department (“Lands D”), the Food and Environmental Hygiene Department (“FEHD”), the Agriculture, Fisheries and Conservation Department (“AFCD”) and the Water Supplies Department (“WSD”).

3. With the implementation of the Policy, an array of management problems associated with PBGs have emerged over the years such as unauthorised grave construction and suspected illegal burials of non-indigenous residents in PBGs. The Ombudsman, therefore, initiated this direct investigation to examine the current management system and procedures, with a view to identifying any inadequacies.

Burial Certificates and Responsibilities of Relevant Departments

4. Under the current system, District Officers and Assistant District Officers of HAD are delegated the statutory authority by FEHD and AFCD respectively to permit burials of deceased villagers in places other than public cemeteries and in country parks. Nevertheless, such authority does not cover enforcement against illegal burials.

5. According to the Operational Guidelines promulgated in 1983 by the former City and New Territories Administration (“CNTA”), the predecessor of HAD, when an indigenous villager passes away, his/her family member must first obtain confirmation of the indigenous status of the deceased from the Indigenous Inhabitant Representative or Rural Committee and make an oath in order to be eligible to apply for a Burial Certificate (“the Certificate”). Upon verification of the eligibility of the deceased, the District Office (“DO”) concerned will issue a Certificate and ask the family member to mark on a map of the PBG produced by Lands D to roughly indicate the proposed location of the proposed grave.

6. The Certificate sets out the conditions that Certificate holder must observe. Those conditions include:

- The remains of the deceased must be buried within the boundaries of the PBG as indicated on the map attached to the Certificate. The serial number of the Certificate must be inscribed on the gravestone.
- The Certificate holder must follow the rules on land use and public hygiene set by Lands D and FEHD respectively in the Attachment to the Certificate. If the grave is located within a country park or a water catchment area, the Certificate holder must also comply with the rules laid down by AFCD and WSD respectively.

7. DOs would refer cases of non-compliance with the above conditions to the relevant departments for follow-up in accordance with their jurisdictions and the relevant legislation. DOs have the power to revoke the Certificate in such cases, and refer the cases to Lands D and FEHD for enforcement action, i.e. removal of the grave and the remains.

8. Between 1983 and 2014, a total of 31,282 Certificates were issued by DOs in the New Territories.

Our Findings

9. From the information that we have gathered, our case studies and site observations, we have identified the following inadequacies in the management of PBGs by the departments concerned.

(1) Unclear Responsibilities and Divided Authority

10. At present, the responsibilities of managing PBGs are shared by several Government departments in accordance with their jurisdictions and statutory authorities. Such divided authority and the lack of one single department for overall management have made it very difficult for PBGs to be effectively managed.

11. While HAD is responsible for processing applications for the Certificate and has been vested with the statutory authority to grant permission for deceased indigenous villagers to be buried on hillsides, the Department does not have the statutory authority and the expertise to supervise the burial process and take enforcement action against suspected illegal activities. The Department needs the assistance of other departments which have such statutory authority and expertise in handling issues relating to PBGs, e.g. to confirm whether a burial site falls within the PBG boundaries, to conduct inspections on PBGs, to follow up on cases of illegal burials and to deal with problems of environmental hygiene and illegal tree felling. However, such other departments

have failed to render HAD full support. As a result, various problems persist and remain difficult to resolve. Such a situation has already lasted for over 30 years.

12. One of the causes of the above-mentioned problem is the Government's failure to assign responsibilities properly for enforcing the Policy when it was first introduced. Prior to the establishment of Lands D in 1982, the former CNTA was responsible for administering Government land as well as handling indigenous villager affairs. Upon its establishment, Lands D took over the land administration function from CNTA, while indigenous villager affairs remain a CNTA responsibility. Since then, the two departments have continued to hold divergent views on the management responsibilities for PBGs. Consequently, the departments concerned cannot efficiently deal with the problems associated with PBGs and the related public complaints/enquiries.

13. Furthermore, under the Policy, deceased indigenous villagers can be permanently buried in PBGs, and yet PBGs remain unallocated Government land. The Government has never officially allocated PBG sites to any single department for management, nor clearly specified by way of a contract (such as a lease or land licence) the relationship between the Government and Certificate holders and their respective rights and obligations. When management problems relating to those sites emerge, there are bound to be disputes as to which party as allocatee/grantee of the land should handle the problems.

14. In one case, a District Lands Office ("DLO") was in dispute with the DO concerned on which department should be responsible for dealing with an illegal trail within a PBG. In another case that involved a dispute among different departments, AFCD argued that illegal tree felling within a burial site that was subject to the regulation of the Certificate should be handled by the DO and DLO.

15. Regarding the aforesaid systemic problems, HAD thinks that the management of PBGs can be improved by setting up inter-departmental management committees chaired by a District Officer or a Rural Representative. However, we believe that a more effective approach is to have one single department or organisation responsible for the overall management of PBGs, modelling on the case of FEHD operating public cemeteries on land allocated to the Department. In this connection, legally binding terms should also be imposed on the Certificate holders. By doing so, the issue of management responsibility can be resolved once and for all.

(2) Loose Conditions of the Certificate

16. Our investigation also reveals that the Government's regulation of PBGs is based mainly on the conditions of the Certificate issued by HAD, but such conditions are very loose and the departments concerned do not have any effective mechanisms to monitor compliance by the applicants. This is manifested in the following loopholes in the existing system of burial of indigenous villagers.

No verification of burial locations

17. According to the Operational Guidelines, neither DOs nor DLOs will conduct site visits to check the burial locations of indigenous villagers. In the absence of boundary markers for PBGs, the actual burial locations may not be the same as those indicated in the applications and may even be outside the PBGs. Although Lands D and FEHD can take enforcement actions and remove the graves and human remains in question, that is actually very difficult to do. Such actions would often be seen as disrespect for the tradition of letting the deceased rest in peace and would meet with strong resistance from the surviving descendants.

18. In one case, as many as about 60 graves/urns were found outside a hillside PBG. Eventually, the DLO and DO reluctantly had to make the case an exception and allowed those graves/urns to stay there. Another case reveals that burial sites could even infringe upon private land and that the land owner concerned eventually had to resort to a civil lawsuit at his/her own costs.

19. HAD has repeatedly proposed that Lands D verify on site the burial locations of indigenous villagers since Lands D has the expertise. Yet, Lands D refused the proposal on grounds of inadequate manpower. We are of the view that since illegal burials outside PBGs do happen, Lands D and HAD should not shy away from their responsibilities. Resource constraints are not a good excuse for inaction.

No restriction on size of burial site

20. HAD puts no restriction on the size of burial site when approving applications for burial of deceased indigenous villagers in PBGs. Nor is there any such restriction in the conditions of the Certificate. Consequently, the areas of land occupied by burial sites of indigenous villagers range from a few dozen to several hundred square feet. According to media reports, some burial sites may occupy more than 1,000 square feet of land.

21. Given the scarcity of land resources in Hong Kong, the public will find it unfair that the Government has set no restriction on the size of burial site for indigenous villagers. Indeed, the granting of free permanent use of Government land for burial of ancestors is already a very generous provision to indigenous villagers. It is, therefore, not unreasonable that the size of burial site should be suitably controlled.

Futility of some conditions of the Certificate

22. The departments concerned have set out conditions in the Certificate that holders must comply with. Nevertheless, we discover that some departments have no procedures or mechanisms to enforce those conditions. They do not even check whether the Certificate holders comply with the conditions of the Certificate, making

those conditions practically useless. For instance, it is stipulated, *inter alia*, that applicants must not remove any trees without prior permission from the DLO concerned. However, DLOs admit that they have never received any applications for tree removal within PBGs, even though it is common knowledge that grave construction at PBGs located in rural areas will normally entail certain extent of tree removal. Throughout these years, the DLOs have turned a blind eye to this problem.

23. Except for AFCD and WSD, the other departments, namely, Lands D, HAD and FEHD at present do not conduct regular inspections on PBGs. They just passively rely on reports of irregularities from the public. The absence of a mechanism to check the holders' compliance with the conditions of the Certificate amounts to conniving at or even encouraging non-compliance.

24. In October 2013, HAD held an inter-departmental meeting and proposed that a pilot scheme be introduced to certain PBGs, including the setting up of some management committees and the implementation of a number of improvement measures to strengthen the regulation of the locations and size of burial sites. That would have been a positive move, but it was halted for lack of support from the other departments concerned.

(3) Lax Enforcement against Illegal Burials

25. Burials of indigenous villagers outside PBGs and hillside burials of non-indigenous villagers (regardless whether they are within PBGs or not) are all illegal burials subject to enforcement actions by Lands D and FEHD. HAD can revoke the Certificates if the burial sites of indigenous villagers are outside PBGs.

26. We notice that illegal burials are in fact not rare. In a case cited above, as many as 60 graves/urns were found outside a hillside PBG. However, as HAD and Lands D would often suspend or even discontinue their enforcement actions when opposed by the indigenous villagers or the villages, the deterrent effect of their actions is very weak. Moreover, the departments concerned have never made any effort to assess the magnitude of the problem of burials outside PBGs.

27. FEHD's information shows that between 2009 and 2014, only three requests were received from DOs for removal of human remains involved in illegal burials. It can be seen that the departments concerned have rarely taken enforcement action in dealing with such cases. Furthermore, while HAD is empowered to revoke the Certificate in case of non-compliance, the DOs have never exercised that power since the introduction of the Policy in 1983.

(4) Ecological Impact of PBGs on Conservation Areas

28. According to the records of the Survey and Mapping Office under Lands D, there are some areas where PBGs overlap with the land of Conservation Areas or Sites of Special Scientific Interest ("SSSIs"). The overlapping areas add up to some 800

hectares. The Planning Department has indicated that those PBGs in existence before publication of the relevant statutory plans are considered as “existing use” under the Town Planning Ordinance, and so construction of new graves within those PBGs by indigenous villagers does not constitute unauthorised developments.

29. Nevertheless, the burials within the PBGs are largely incompatible with the stated purposes of Conservation Areas or SSSIs. To build a new grave, indigenous villagers would usually remove the trees, shrubs and turf in the vicinity before cementing the burial site. Apparently, such activities can damage the ecological habitat with conservation value, contrary to the Government’s original intent of designating the Conservation Areas. Given that the authorities do not verify the locations of burial site, nor is there any restriction on the size of burial sites, extensive construction works may be carried out within the conservation zones, thereby causing damage to the natural ecological environment.

30. In one case, some people were alleged to have removed the turf and vegetation within a Conservation Area to make way for building graves and an access road. A hillside slope covering 8,000 square metres had also been scorched by fire.

(5) Lack of Long-term Planning for PBGs

31. The land available in rural areas for hillside burials is limited. Since indigenous villagers are entitled to permanent burial within PBGs, in the long run, the available space within the PBGs will gradually shrink and be less able to cope with villagers’ demand. Upon our enquiries, HAD has merely replied that it is unable to estimate the usable life span of the PBGs because when PBGs will become saturated depends on a number of uncertain and unforeseeable factors, such as the usable areas of the PBGs, the death rates among indigenous villagers, and their preference to be buried in PBGs.

32. We consider that the Government should have long-term planning. After all, the Policy has been implemented for more than 30 years. It should not be too difficult to collate the relevant data for analysis and forecast purposes. With limited land resources, the Government should give serious thoughts to the matter and contemplate how to uphold the rights and interests of indigenous villagers in hillside burials on the one hand and balance the interests of the general public on the other.

Recommendations

33. In the light of the above findings, The Ombudsman urges:

HAD, Lands D, FEHD, AFCD and WSD

- (1) to launch the pilot scheme proposed by HAD as soon as possible, with the departments concerned actively participating according to their

respective expertise and statutory powers, to ascertain whether the improvement measures are feasible and effective, with a view to gradually extending them to cover more PBGs; such measures to include boundary markers for the PBGs and restriction on the size of burial sites;

- (2) to review and strengthen the conditions of the Certificate as soon as possible, and establish a mechanism for the departments concerned to monitor the compliance of those conditions stipulated by them and to take enforcement actions where necessary;

HAD and Lands D

- (3) to explore ways for their mutual support and set up an effective mechanism to ensure that all the graves are located within the PBGs, so as to avoid any future disputes over their enforcement actions;
- (4) to assess the magnitude of the problem of illegal burials and formulate effective enforcement strategies, including regular patrols of the PBGs and black spots of illegal burials, and step up their efforts in combating illegal burials;
- (5) to conduct a comprehensive review of the Policy jointly with the relevant departments and policy bureaux, aiming at incrementally systematising and enhancing the management of PBGs (if the management committee approach proposed by HAD proves to be unsatisfactory, deliberations should commence quickly about designating a single department/organisation to take up the overall management of PBGs); and to scrutinise the land use and the impact on natural environment in relation to the Policy, with a view to formulating a sustainable long-term strategy, including a study on the feasibility of gradually adopting the public cemetery approach for managing PBGs; and

Lands D

- (6) to avoid designating or extending PBGs within conservation zones, so as to avoid causing further damage to the ecological habitat with conservation value.