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(23 January 2014)*

*Office of The Ombudsman, Hong Kong*

*Direct Investigation into  
“Special Procedures” of Buildings Department for  
Handling UBW Cases Involving Celebrities*

The Ombudsman has completed a direct investigation into the “special procedures” of the Building Department (“BD”) for handling cases of unauthorised building works (“UBW”) involving celebrities.

BD began to adopt those “special procedures” in mid-2011 for handling UBW cases in which celebrities were involved. By conducting priority investigations, BD hoped that public queries about such cases could be addressed as soon as possible.



Our investigation reveals that BD was too slow and passive in apprising the public of the details of its “special procedures”. Neither has it produced any written instructions on those procedures. In implementing the procedures, BD could generally achieve the objective of the procedures, but its performance in a few cases was not satisfactory. We also find that BD often took too long in taking enforcement actions against UBW cases, whether celebrities were involved or not.

The Ombudsman has made three recommendations to BD: to make public announcements as soon as possible when implementing new measures in future; to document the “special procedures”; and to try to find a solution to the problem of delays in handling UBW cases.

The investigation report is at **Annex 1**.

***Direct Investigation into  
Mechanism of Transport Department for  
Monitoring the Frequencies of Franchised Bus Services***

The Ombudsman has completed a direct investigation into the mechanism of the Transport Department (“TD”) for monitoring the frequencies of franchised bus services.

While TD has in place a mechanism to monitor the general operations of franchised bus companies, the number of complaints about bus services regarding lost trips, irregular service frequencies and delays continues to increase in recent years. One of the reasons is that TD’s definition of lost trips and its view on delayed services fall far short of public expectations. Moreover, TD has not fully utilised the operational records submitted by the bus companies to actively monitor the problems of lost trips and irregular service frequencies. All in all, the problems persist because TD has failed to effectively address the above two major issues, nor has it properly responded to complaints from passengers.

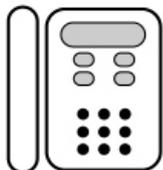


The major causes of lost and delayed bus trips are shortage of bus drivers and traffic congestion. The shortage of bus drivers has eased in recent years. As regards traffic congestion, TD has strived to promote bus route rationalisation, but the success rate has not been satisfactory because of opposition from the districts affected.

The Ombudsman urges TD to make a number of improvements. In particular, TD should review its definition of lost trips; take the issue of delayed services seriously; conduct more relevant data analysis to better understand traffic congestion and other causes of lost or delayed bus trips; and enhance its complaint handling.

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

***Enquiries***



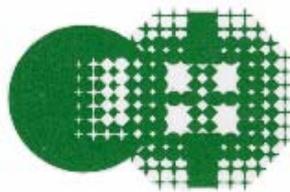
For press enquiries, please contact Ms Matty Ho, Assistant Manager (External Relations) at 2629 0513 or by email [mattyho@ombudsman.hk](mailto:mattyho@ombudsman.hk).

**Office of The Ombudsman  
23 January 2014**

**DIRECT INVESTIGATION REPORT**

**"SPECIAL PROCEDURES" OF  
BUILDINGS DEPARTMENT FOR HANDLING  
UBW CASES INVOLVING CELEBRITIES**

January 2014



**Office of The Ombudsman  
Hong Kong**

# *1*

## *INTRODUCTION*

### **BACKGROUND**

**1.1** Since 2011, a number of local celebrities (including senior Government officials and Members of the Executive Council (“ExCo”) and the Legislative Council (“LegCo”)) had become the subjects of extensive media coverage for suspected unauthorised building works (“UBW”) in their properties. As the media reports gave rise to such questions as whether the parties involved had breached the law and whether the Administration had handled such cases with impartiality and fairness, they attracted much public attention.

**1.2** This Office later learned from media reports that since mid-2011, the Buildings Department (“BD”), which is responsible for dealing with UBW, had already been using a set of procedures specially for handling UBW cases involving celebrities (“celebrity cases”). By according priority to investigating celebrity cases, BD hoped to be able to answer public queries about such cases as soon as possible. In this report, we conveniently dub those procedures “special procedures”.

**1.3** As celebrity cases emerged one after another in 2012 and the general public continued to express concern about the Administration’s handling of such cases, The Ombudsman started in December 2012 to make preliminary inquiries. On 4 November 2013, he decided to initiate a direct investigation against BD, pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance (Cap 397).

### **SCOPE OF INVESTIGATION**

**1.4** This investigation aims at examining the above-mentioned “special procedures” and their implementation by BD, with a view to identifying inadequacies if any.

## **PROCESS**

**1.5** We have studied the documents and files from BD, as well as the press releases issued by the Administration. In addition, we have held meetings to exchange views with BD officials in the course of our investigation.

**1.6** On 18 December 2013, we issued a draft investigation report to BD for comments. This final report, incorporating the comments from BD, was completed on 17 January 2014.

# 2

## ***GENERAL ENFORCEMENT POLICY AND PROCEDURES***

### **DEFINITION OF UBW**

**2.1** UBW include the following three types of construction works carried out in buildings:

- (1) any addition or alteration to the building without the prior approval of the Building Authority (“BA”, i.e. the Director of Buildings);
- (2) minor construction works not carried out in compliance with the Minor Works Control System as stipulated in the Buildings Ordinance (“BO”) (Cap 123); and
- (3) construction works which, while having no impact on the structure of a building and hence exempted from obtaining the prior approval of BA, does not comply with the building standards specified in building regulations.

**2.2** Common examples of UBW items include flat roof/rooftop structures, supporting frames for air-conditioners or cooling towers, and unauthorised building works related to the subdivision of flats into “partitioned flats”.

### **STATUTORY POWERS**

**2.3** Being the Department responsible for enforcing the BO, BD is

empowered by the BO to take enforcement actions against UBW. BD officers may, under section 22(1) of the BO, enter any premises or enter upon any land to ascertain whether any building, structure or land is dangerous or liable to become dangerous. Where necessary, BD officers may, in the presence of a police officer, break into any premises. For enforcing the above provision, section 22(2) of the BO also authorises BD officers to take any actions or steps that they consider necessary, including the making of openings and the taking of reasonable samples.

**2.4** The power of BD officers as conferred by section 22(1) mentioned above is subject to the restrictions as set out in section 22(1A), i.e. except in case of emergency, BD officers must have obtained the permission to enter by the owner or occupier of the premises or land, or a warrant issued by a magistrate<sup>1</sup>. Otherwise, they may not enter the premises or enter upon the land under section 22(1).

**2.5** When premises are confirmed to have UBW, the Director of Buildings can issue a “statutory order” pursuant to section 24(1) of the BO, requiring the owner of the premises to demolish, remove or alter the UBW before a specified date. In case of non-compliance by the owner, section 24(3) of the BO provides that BD can instruct its contractor to carry out the action as required by the order and, pursuant to section 24(4) of the BO, recover the cost from the owner, who may also be subject to criminal prosecution for failure to comply with the order.

**2.6** If there is evidence that a person who has statutory responsibility (such as an authorised person or a registered structural engineer) knowingly violates the requirement that BD’s prior approval must be obtained before commencement of building works, or makes false statements to BD, the Department will conduct a criminal investigation into the case and seek legal advice from the Department of Justice whether or not to institute a prosecution.

## **ENFORCEMENT POLICY**

**2.7** BD formulated an enforcement policy on UBW in 1975 and revised it

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<sup>1</sup> Section 22(1B) of the BO stipulates that a magistrate may issue a warrant authorising entry or even breaking into any premises if there are reasonable grounds for suspecting that with respect to the building works that have been or are being carried out, there is material divergence or deviation from any plan approved; or that the building works are not in compliance with the standard of structural stability, public health or fire safety; or that the premises have been rendered dangerous and entry into the premises by an authorised officer has been refused or could not be gained and the notice of the intention to apply for a warrant has been served on the owner or occupier of the premises.

in 1988. Under the policy, BD would accord high priority to tackle those UBW items that pose obvious hazards or imminent danger to life or property, are under construction or newly completed, or cause serious health problems or environmental nuisance.

**2.8** In April 2011, BD further revised the policy by extending the coverage of high priority cases of actionable UBW to include all UBW items on the exterior of buildings, including those on rooftops, podiums and yards as well as those found in alleys or extending from external walls, irrespective of their level of risks to public safety and whether they are newly completed. The Department's revised enforcement policy is set out in **Annex A**.

**2.9** For UBW items not requiring priority enforcement actions, BD will issue an advisory letter or a statutory warning notice to the owner depending on the situation. Where a statutory warning notice is issued, BD will send the notice to the Land Registry for registration against the title of the property to impose an encumbrance. The warning notice will be cancelled only after BD has confirmed that the irregularities are rectified.

**2.10** In April 2012, BD started implementing a new enforcement policy for UBW in New Territories Exempted Houses<sup>2</sup> ("NTEHs"). Apart from the established policy to first tackle those UBW items that pose imminent danger or are under construction or newly completed, BD will also take enforcement action under the First Round Targets Scheme<sup>3</sup> against UBW items with no imminent danger but potential risk. In case the irregularities are less serious and the potential risk of the existing UBW item is relatively low, BD will allow the owner to submit an application under the Reporting Scheme<sup>4</sup> to appoint some qualified persons to conduct an inspection. If the reported UBW item meets the requirements, the owner will only have to carry out regular safety checks instead of removing it immediately.

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<sup>2</sup> New Territories Exempted Houses normally refer to village houses in the New Territories, which are exempted under the Buildings Ordinance (Application to the New Territories) Ordinance and, therefore, not subject to part of the provisions of BO (including the provisions about approval by BD and its consent to building works) as well as the associated regulations. They include village houses built by indigenous villagers in the New Territories under the Small House Policy.

<sup>3</sup> Regarding existing UBW cases with no imminent danger but serious violations and higher potential risks (such as village houses having more than three storeys or those with an enclosed UBW item covering more than half of the rooftop), BD will include them in the First Round Targets Scheme and carry out large-scale clearance operations in the villages concerned, one by one.

<sup>4</sup> BD accepted applications under the Reporting Scheme from 1 April to 31 December 2012.

## ENFORCEMENT PROCEDURES

**2.11** Upon receiving a report of UBW, BD will decide when to carry out site inspections according to the nature of the case, e.g. whether the UBW item constitutes imminent danger and may become imminently dangerous. BD has in place the following performance pledges for conducting site inspections in different circumstances:

### *UBW with Imminent Danger*

<b>Location of UBW Item</b>	<b>Performance pledge for conducting site inspection (From receipt of report)</b>	
	<b>Office Hours</b>	<b>Non-office Hours</b>
Urban areas	1.5 hours	2 hours
New towns in the New Territories	2 hours	2 hours
Other areas in the New Territories	3 hours	3 hours

### *UBW without Imminent Danger*

<b>Nature of UBW Item</b>	<b>Performance pledge for conducting site inspection (From receipt of report)</b>
Work in progress	48 hours
On the external wall of building	30 days
Others	50 days

**2.12** BD officers will take into account their observations during site inspection or any evidence at hand to decide whether the building works concerned should be categorised as UBW. They will also look for any other UBW items in the vicinity of the reported one. Where other UBW items are found, BD officers must carefully verify the situation and submit a report.

**2.13** During the investigation, if BD officers suspect that there are UBW

items on the premises concerned but cannot confirm the case, they will usually require the owner to provide information for BD to decide whether and how to take further action. According to BD's operational guidelines, if no high priority cases of UBW can be found or confirmed and no apparent danger is observed after three site inspections, BD may stop action and wait until there is further information or evidence to support a re-investigation and other appropriate follow-up actions.

**2.14** Where the UBW items are confirmed to be high priority cases (**para. 2.8**) but with no imminent danger, BD will first issue an advisory letter to the owner urging immediate rectification. In case the owner fails to rectify the irregularities before the deadline given in the advisory letter, BD will then issue a statutory order requiring him/her to demolish, remove or alter the UBW items concerned and have the order registered in the Land Registry against the title of the property. For high priority cases involving UBW with imminent danger, or UBW items already included in large-scale operations for removal<sup>5</sup>, however, BD will issue a statutory order without first issuing an advisory letter.

**2.15** In general, BD will notify the informant of the progress or result in 30 days after completing the investigation.

**2.16** In normal circumstances, owners of UBW items are required to comply with the statutory orders within two months. After the deadline, BD will conduct a further site inspection to check whether the irregularities have been rectified. In case of non-compliance, BD will issue a reminder and a warning letter to the owners, advising them that the Department will consider instituting prosecutions if they continue to disregard the orders. On receipt of the orders, owners who have difficulty in arranging rectification works may apply to BD for extending the deadline<sup>6</sup> for compliance. They may also raise objection against the orders by appealing to the Appeal Tribunal (Buildings) under section 44 of the BO. Pending the outcome of an appeal, BD will suspend its enforcement of the relevant order.

**2.17** A flowchart showing BD's general handling of reports on UBW is at **Annex B**.

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<sup>5</sup> Apart from tackling UBW items reported, BD will initiate a number of large-scale operations to remove in one go the UBW items of a group of target buildings for higher efficiency in UBW clearance.

<sup>6</sup> BD will consider whether to grant an extension of deadline depending on the situation of individual cases, such as the scale of demolition works involved, level of difficulty and complexity of the process.

# 3

## “*SPECIAL PROCEDURES*”

### ORIGIN, OBJECTIVE AND MAIN FEATURES

**3.1** Between mid-2011 and early 2012, the media reported a number of UBW incidents involving celebrities, which gave rise to considerable public concern.

**3.2** In February 2012, in a reply to the media regarding the progress of investigation into a certain celebrity case, the then Secretary for Development (“SDEV”) first disclosed that the Administration had formulated the “special procedures” mentioned in **para. 1.2** for handling celebrity case. Below is an extract of the reply:

“You may remember that in the middle of last year (2011), there were a number of UBW incidents involving senior Government officials, celebrities and Council Members. Therefore, BD has some established procedures in place. If the owner involved in a UBW case reported by members of the public or the media is a social celebrity and it has given rise to serious concerns among the media as well as the community, BD will take priority follow-up action under the procedures established last year...We will also try our best to cooperate with the media and provide the information you require in order to allay public concerns.”

**3.3** Subsequently, SDEV and the Director of Buildings provided further information in response to questions from LegCo Members and the media on various occasions. They reiterated that the essence of the “special procedures” lies in carrying out priority inspection to ascertain the existence of the reported UBW item as soon as possible in order to allay public concerns.

**3.4** In response to our investigation, BD explained that:

- (1) The “special procedures” apply to cases involving senior Government officials (including the Chief Executive, Secretaries of Bureaux, officials under the accountability system, permanent secretaries and heads of departments) and social celebrities (including ExCo and LegCo Members and other influential people in the community).
- (2) Taking “priority follow-up action” under the “special procedures” refers to carrying out site inspection and investigation on the day of receipt of a UBW report from the media/the public, or in any case, not later than a few days afterwards.
- (3) On receipt of media enquiries, BD will disclose the progress and result of its investigation to the media. If many enquiries about the same case are received, BD will respond by way of a press release. To care for the feeling and to protect the privacy of the person(s) involved, BD will only sum up the situation when announcing its investigation result or progress, rather than giving full details.

**3.5** The decision whether to apply the “special procedures” to a case rests with the Director of Buildings himself.

**3.6** BD also stressed that the objective of priority inspection and investigation (“priority follow-up action”) is just to respond to questions from the public and the media as soon as possible. After completing its investigation, BD will take further actions entirely in accordance with its general policy and procedures. It will act strictly according to the law and be impartial to all. It will not be particularly stringent or lenient to any person in its enforcement actions just because of his/her identity..

**3.7** BD confirmed that it had not produced any document to spell out the “special procedures”.

## **ENFORCEMENT OVERVIEW**

**3.8** As at December 2013, BD had applied the “special procedures” to 46

UBW cases (none of them posed any imminent danger), of which 29 cases had been investigated and concluded. Those cases were concluded mainly because:

- the owner had voluntarily removed the UBW items;
- the UBW were not under the priority action category and no further action by BD was necessary, apart from issuing an advisory letter or a statutory warning notice (**para. 2.9**);
- the building works involved were exempted works which did not require the prior approval of BA and did not contravene any regulations under the BO.

**3.9** As for the 17 cases still in progress, BD had also completed its investigation and confirmed that all the UBW items were subject to priority action but did not pose any imminent danger. Those cases remained outstanding mainly due to the following situations:

#### *Non-NTEH Cases*

- BD had issued advisory letters, but the owners had not commenced any rectification works. BD was preparing the issuance of statutory orders;
- BD had issued statutory orders, but the owners had not commenced or completed the rectification works. BD was preparing further action;

#### *NTEH Cases*

- the NTEH owners had submitted applications to BD under the Reporting Scheme;
- the UBW items had been identified by BD as First Round Targets awaiting removal.

**3.10** For our analysis of BD's implementation of the "special procedures", please see **Chapter 4**.

# 4

## *OUR OBSERVATIONS, COMMENTS AND RECOMMENDATIONS*

### OUR OBSERVATIONS AND COMMENTS

#### *Formulation of “Special Procedures”*

**4.1** When celebrities, in particular senior Government officials and politicians, are suspected of having UBW in their properties, their personal integrity would often be called into question. Such incidents would also easily trigger discussions on whether those celebrities have breached the law and whether the Administration was handling their cases in a fair and impartial manner. Understandably, the public would be anxious to know the truth as soon as possible. With a large number of such cases cropping up, it was timely and appropriate of BD to make a decision in mid-2011 to start adopting the “special procedures” (**paras. 3.1-3.3**), under which “priority follow-up action” is to be taken in celebrity cases in order to answer queries as soon as possible. We find the arrangement justifiable.

**4.2** We also agree that once inspection of and investigation into celebrity cases are completed, BD should take enforcement actions entirely in accordance with its general policy and procedures. It should act strictly according to the law and be impartial, and must not be particularly stringent or lenient to any person just because of who he/she is (**para 3.6**).

**4.3** Nevertheless, the “special procedures” are, after all, a new measure different from the established procedures for handling ordinary UBW cases and are

directed against a certain category of people in the community (i.e. celebrities). Hence, this Office considers that the Administration should have quickly promulgated its decision to adopt the “special procedures”, apprising the public of the details and the rationale. It should not have waited for over half a year until the media enquired about a certain celebrity case, to disclose that a set of “established procedures” was already in place to deal with celebrity cases (**para. 3.2**). The Administration’s action in this respect had indeed been too slow and passive. No wonder some people had in the interim queried BD’s way of handling celebrity cases.

**4.4** Besides, more than two years have lapsed since BD implemented the “special procedures” and dozens of cases have already been handled through those procedures (**para 3.8**). Yet BD has not produced any written instructions on them. We consider this state of affairs quite unsatisfactory. Detailed explanation on those procedures had never been formally given. That in paragraph 3.4 was provided only in response to our investigation. Furthermore, there may also be different interpretations on the requirement of “conducting site inspections and investigations **within a few days** at the latest (**para. 3.4 (2)**).” In the absence of operational guidelines, different officers may have different understanding of the “special procedures”, which may in turn lead to different ways of handling cases.

#### ***Implementation of “Special Procedures”***

**4.5** To examine how BD had been implementing the “special procedures”, we selected, among the 46 celebrity cases (**para 3.8**), 15 cases which were of a relatively serious nature.

**4.6** Since the highlights of the “special procedures” are BD’s “priority follow-up action” in celebrity cases to “ascertain the existence of UBW”, with a view to “addressing public concerns”, but subsequently “taking enforcement actions impartially and strictly in accordance with the law” (**paras. 3.2, 3.3 and 3.6**), our examination of BD’s implementation of those procedures would focus on these four areas.

**4.7** Regarding “**priority follow-up action**”, we note that in most cases, BD managed to conduct a site inspection “within a few days” as stipulated in the “special procedures”. Only in one case did BD conduct an inspection ten days after receiving the UBW report.

**4.8** BD attributed that to the heavy caseload of the officer during that period, and indicated that it would deploy more staff for timely inspection in future.

**4.9** On “**ascertaining the existence of UBW**”, in the majority of cases, BD was able to ascertain in its first inspection whether the UBW items reported by the media existed or not.

**4.10** However, in one case, BD failed to ascertain the existence of the reported UBW item during its inspection. Subsequently, BD repeatedly sought explanation from the authorised person appointed by the owner, but no specific response was received. The investigation dragged on for several months without any result.

**4.11** With respect to that case, BD explained that its staff had not found any obvious or imminent danger on the premises, and there was no substantial evidence to support an application to the court for a warrant (**para. 2.4**) authorising the Department to take further action. Nevertheless, as an item of building works not in the approved building plans (though it could be an exempted item) was found, BD requested the authorised person to provide information in accordance with its usual practice (**para. 2.13**).

**4.12** We have no way to ascertain the site situation at the time of BD’s investigation. If BD’s account of the events is true, we find it not unreasonable of BD just to request explanation from the authorised person appointed by the owner based on the observations of its staff, which was also in keeping with its general practice of handling suspected UBW cases. However, the objective of the “special procedures” is to respond to questions from the public and the media as soon as possible (**para. 3.6**). In the aforementioned case, BD still could not announce its investigation result to the public/the media after several months. The objective of the “special procedures” was clearly not fulfilled.

**4.13** On “**allaying public concerns**”, except for the one mentioned above, BD was in every case able to give the media or the public a summary of the result of its site inspection (including all the UBW items found during the inspection), whether the UBW items were on the priority action list, and what further actions would be taken (**para. 3.4(3)**).

**4.14** Regarding “**acting according to the law and being impartial in**

**enforcement actions**”, in all the 15 celebrity cases we examined, BD had taken enforcement actions according to the relevant laws. However, we have the following observations on 9 of those cases:

- (1) In 2 cases, no advisory letters urging the owners to commence rectification works were issued for more than six months after the UBW items had been confirmed.
- (2) In 6 cases, the owners failed to commence rectification works within the period specified in the advisory letters, but statutory orders had yet to be issued one year afterwards.
- (3) In 2 cases, BD did not issue warning letters to the non-compliant owners until more than six months or even one year after the deadlines given in the statutory orders.
- (4) In 1 case, BD only instituted prosecution against the non-compliant owner some eight months after issuing the warning letters.

**4.15** BD explained that the 9 cases cited above needed more handling time because they were either cases that would be dealt with in “large-scale clearance operations” or cases involving UBW items “to be handled progressively”<sup>7</sup>.

**4.16** We understand that whether celebrities are involved or not, the time taken for handling a case can vary because of different factors, and BD has already told the public time and again that the number of UBW items in the territory that require priority enforcement actions greatly exceed the Department’s ability to tackle them quickly. Nevertheless, as BD has accorded higher priority to celebrity cases in conducting inspections and announcing the results, the public would naturally be interested in what further actions it would take in such cases. Judging from the 9 cases cited above, however, BD’s efficiency in taking enforcement actions could hardly live up to public expectation.

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<sup>7</sup> UBW items that “require priority enforcement actions and would be handled progressively” include those on rooftops and podiums or in yards and alleys. Before the revised enforcement policy of April 2011 (**para. 2.8**), those items were not regarded as UBW that required priority enforcement actions. BD had expected numerous UBW reports when the new policy started to take effect. Moreover, apart from those reported, BD would take enforcement actions against other UBW items in the same building and the number of actionable UBW items might exceed the capacity of BD in issuing statutory orders. Therefore, BD must prioritise those items and issue statutory orders according to their order of priority.

**4.17** Between 2011 and 2013, this Office handled more than 100 public complaints about BD’s handling of UBW and around 30% of those complaint cases involved some faults or inadequacies on the part of BD. The faults or inadequacies were largely about delays in taking enforcement actions. This shows that it is quite common for BD to take long in handling UBW cases.

**4.18** Although there is no evidence to prove that BD has been particularly lax in dealing with celebrity cases, there are often delays in its handling of UBW cases (whether celebrities are involved or not). We consider that BD should probe into the reasons for such delays and try to find a solution to the problem. Failing to do so would not only undermine its authority, but worse still, may also gravely affect public safety.

## **OUR RECOMMENDATIONS**

**4.19** The Ombudsman makes the following recommendations to BD:

- (1) to take reference from this study and, when implementing new measures in future that may affect the public, announce the details and the reasons as soon as possible (**para. 4.3**);
- (2) to document the “special procedures”, setting out the objective, rationale and working guidelines for staff to follow (**para. 4.4**);  
and
- (3) to probe into the reasons for delays in handling UBW cases and try to find a solution to the problem (**para. 4.17**);

## **ACKNOWLEDGEMENT**

**4.20** The Ombudsman thanks BD for its full cooperation during this investigation.

**Office of The Ombudsman**

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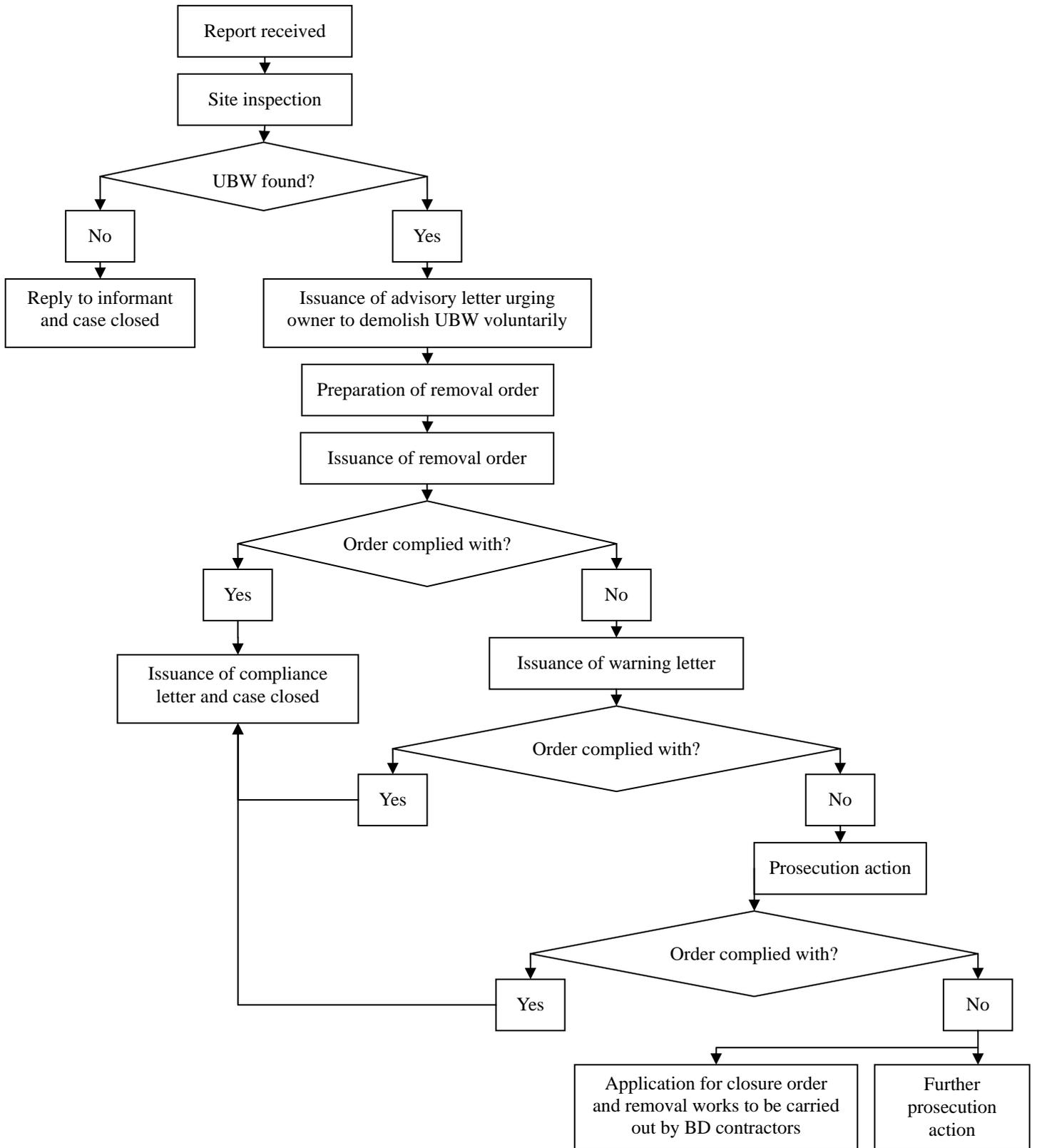
**January 2014**

Under the enforcement policy revised in April 2011, the Buildings Department will give priority to removal of the following categories of unauthorised building works items:

- (1) items constituting obvious or imminent danger to life or property (such as obstructing the means of escape or subdivision of flats causing damage to building structures);
- (2) items constituting a serious health or environmental nuisance (e.g. improper connection of drainage systems);
- (3) new items (excluding statutorily exempted building works under the Buildings Ordinance), irrespective of the date of completion of the building where such works have been carried out;
- (4) items on the exterior of buildings, including those on rooftops and podiums, in yards and lanes, and projecting from external walls (excluding projecting structures covered by the Household Minor Works Validation Scheme and the Signboard Control System, and other minor amenity features);
- (5) major standalone items;
- (6) a specific type of items, or items identified in buildings or groups of buildings, targeted for large-scale operations; and
- (7) unauthorised alterations to or other UBW in green and amenity features of a building (e.g. balconies, sky gardens and podium gardens) for which exemption from calculation of gross floor area has been granted by the Building Authority.

# Flow Chart on Handling of Reports on Unauthorised Building Works (UBW)

## Appendix 2



## **Executive Summary**

### **Direct Investigation into Mechanism of Transport Department for Monitoring the Frequencies of Franchised Bus Services**

The Office of The Ombudsman has from time to time received complaints from members of the public against the Transport Department (“TD”) for failing to properly monitor the operations of franchised bus companies. They alleged that certain bus routes were plagued with problems of delayed or even lost trips.

2. Although TD has put in place a mechanism to monitor the operations of franchised bus companies and established procedures for handling complaints from the public, the problems of delayed or lost trips have persisted and many members of the public are still dissatisfied with the Department’s responses to their complaints. This shows that TD’s monitoring mechanism is not entirely effective. There also seems to be room for improvement in the way TD responds to public complaints on these issues.

3. In this connection, The Ombudsman declared on 18 October 2012 this direct investigation into the mechanism of TD for monitoring the frequencies of franchised bus services and its complaint handling procedures with a view to identifying possible areas for improvement.

#### **Laws and Regulations Governing Operations of Franchised Bus Companies**

4. According to the Public Bus Services Ordinance (“PBSO”, Cap 230), a franchised bus company shall, at all times during the franchise period, maintain to the satisfaction of TD a proper and efficient public bus service. It shall also keep proper records in respect of the operational data of its bus service and regularly furnish such records to TD.

5. Currently, TD has granted six franchises to the following five franchised bus companies:

- Kowloon Motor Bus Company Limited (“KMB”);
- Citybus Limited (Franchise for Hong Kong Island and Cross Harbour Routes) (“Citybus 1”);
- Citybus Limited (Franchise for Airport and North Lantau Bus Network) (“Citybus 2”);
- New World First Bus Services Limited (“NWFB”);
- Long Win Bus Company Limited (“LW”); and
- New Lantao Bus Company Limited (“NLB”).

The five franchised bus companies now operate different bus routes throughout the territory, delivering a total of around 1.4 billion passenger-trips on average annually.

***Statutory Penalties***

6. Under the PBSO, if a franchised bus company fails to comply with the clauses of its franchise or provisions of the PBSO without reasonable explanation and follow-up action, the Chief Executive-in-Council (“CE-in-C”) may impose on the bus company a financial penalty ranging from not exceeding \$10,000 for the first occasion to a maximum of \$50,000 subsequently. Furthermore, the PBSO stipulates that if a franchised bus company fails to maintain a proper and efficient public bus service without good cause, the CE-in-C may revoke its right to operate any specified routes or its franchise altogether.

**Monitoring of Bus Service Frequencies**

7. At present, TD monitors the service frequencies of franchised bus companies through the following means:

- requiring the bus companies to conduct “system audits” on their own internal control systems;
- reviewing the operational records furnished by the bus companies;
- conducting various forms of surveys and site inspections;
- requiring the bus companies to set out their performance benchmarks projected for the coming year in their annual Forward Planning Programmes; and
- requiring the bus companies to conduct passenger satisfaction surveys and submit the relevant reports to TD.

8. All bus companies are required to maintain records in respect of the following matters and furnish the verified records to TD after seven days:

- the time at which each bus is dispatched from the terminus on each route;
- the number of journeys and the total kilometres travelled daily by each bus on each route;
- the number of lost trips daily in relation to each route due to various reasons; and
- the number of bus drivers on duty each day and the number of reserve drivers each month.

9. TD will refer to the above records in handling complaints against bus companies or assessing their overall operations. As part of its on-going function for monitoring the frequencies of bus services, TD will also conduct regular analysis of such records.

## ***Overall Observations on TD's Monitoring Mechanism***

10. TD has sufficient channels for gathering the operational data on bus service frequencies, and the data collected are quite substantial and comprehensive. However, TD has not fully utilised these records to make in-depth examination into issues of serious public concerns (such as delayed bus trips and the dispatch of special buses). Furthermore, its verification of the operational records submitted by the bus companies is somewhat inadequate. TD mainly carries out random checks and conducts investigation when handling complaints, as well as relies on the "system audits" done by qualified auditors or certification bodies. We consider that TD should step up its verification of the operational records submitted by the bus companies.

### **Lost and Delayed Trips**

#### ***Definition of Lost Trips***

11. A service schedule is issued for each bus route specifying the service level to be maintained by the bus company, including the service hour and frequencies in different time periods. According to the definition currently adopted by TD, lost trips occur when the number of journeys actually travelled each day is less than the number specified in the service schedule for that bus route.

12. In the event of contingency or when temporary traffic arrangements are implemented due to festivals or special occasions, bus companies will adjust the frequencies of bus services according to actual needs. Special buses may also be dispatched directly to an intermediate bus stop to clear the backlog of passengers there. These special buses are counted into the frequencies of bus services and so no lost trips will incur as a result.

#### ***Situation of Lost Trips***

13. Below were the lost trip rates of all the franchised bus companies between 2008 and 2012:

<b>Bus company</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
KMB	3.2%	3.3%	6.5%	8%	4.6%
Citybus 1	1.9%	1.5%	1.4%	1.9%	3.0%
Citybus 2	0.9%	0.5%	0.4%	0.9%	1.0%
NWFB	2.9%	2.2%	2.5%	3.1%	4.7%
LW	0.8%	0.5%	1.2%	2.6%	2.6%
NLB	0.5%	0%	0%	0.1%	0.1%

14. According to the passenger satisfaction surveys conducted by the bus companies between 2010 and 2012, there was a drop in the satisfaction level of passengers towards the stability of bus services:

<b>Level of satisfaction</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Satisfied/Very satisfied	55%	55%	52%
Unsatisfied/Very unsatisfied	20%	26%	27%
No comments	25%	19%	21%

15. Over the past three years, there was an apparent rising trend in the number of complaints<sup>1</sup> received by TD through different channels against the franchised bus companies about irregular service frequencies, lost trips and delays:

<b>Organisation</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Transport Complaints Unit	1,100	1,468	3,508
1823 Call Centre	875	1,612	3,485
<b>Total no. of cases</b>	<b>1,975</b>	<b>3,080</b>	<b>6,993</b>

16. TD noted that the lost trip rates had started declining since mid-2012 (see **para. 13**), but the number of passenger complaints about bus service frequencies had increased in the same year. TD believed that this could be attributable to the increasing public awareness of the responsibility of the franchised bus companies; the greater public concerns about bus services following extensive media reports on lost trips; and the popularity of personal telecommunication devices facilitating the public to lodge complaints through different channels.

***Follow-up Measures Taken on the Problem of Lost Trips***

17. In 2011 and 2012, TD found 549 and 719 lost trips respectively on the routes subject to its investigation. The follow-up measures taken included:

<b>Follow-up measure</b>	<b>2011 (No.)</b>	<b>2012 (No.)</b>
Issuing a reminder letter or email to the bus company	2,701	5,733
Telephone or meeting to discuss with the bus company	200	38
Revising the service schedule of the bus route	194	287
Issuing a warning letter to the bus company	6	2

<sup>1</sup> TD has not taken out the duplication in the figures of complaints received as a result of complaints lodged by members of the public through different channels in relation to the same incident.

As seen from the figures above, the number of reminder letters issued by TD to the bus companies for lost trips had increased substantially in those two years. We believe that this was related to the substantial increase in the number of complaints (see **para. 15**).

18. In the past 20 years, the Administration has only meted out on one occasion the statutory penalty applicable to non-compliant bus companies (see **para. 6**)<sup>2</sup>. Moreover, the fines lack deterrent effect, and the revocation of individual routes or the franchise altogether would not help to improve bus services in most cases. Besides, TD needs to seek approval from the CE-in-C before imposing any statutory penalty on a bus company and the relevant procedures can take a long time. In handling the problem of lost bus trips, TD actually only relies on the issuance of reminder or warning letters but the effectiveness is doubtful. The Department, therefore, should consider reviewing whether the existing system of sanctions is adequate and the need to put in place additional measures, such as publicising details of the warning letter issued on each occasion.

### *Delayed Bus Trips*

19. TD did not conduct any statistical analysis on the problem and causes of delayed bus trips. It considered that delays in bus journeys did not necessarily result in lost trips. While delays were undesirable, it would still be acceptable if the bus companies, in cases where individual buses failed to leave on schedule, could take remedial actions and arrange for the next bus on the schedule to depart as soon as possible to avoid lost trips.

20. Since statistical data concerning delays in bus journeys were not available from TD, our investigators had conducted two site inspections to observe the actual situations. We found that there were delays in about 26% of the bus frequencies. The delays ranged from 1 to 20 minutes, and were less than 5 minutes in most cases (around 84%). Furthermore, we scrutinised the operational records of three of the bus routes that were more prone to complaints. Those records, provided by TD, covered every Monday between January and June 2013. We noticed that about 20% of the buses left the bus terminus at a time later than the scheduled departure time. Such delays ranged from 1 to 30 minutes, with 1 to 5 minutes being most common (around 81%). In view of the limited scope of our observations, TD should conduct an in-depth review and relevant data analysis of the problem of delayed bus trips. Where necessary, TD should ask the bus companies to include those relevant data in their regular submission of operational records, so that it could monitor and regulate more effectively the problems of “lost bus trips” and “delayed bus trips”.

21. We do have reservations about TD’s view on delayed bus trips. Rather, we consider that delayed bus services should include the following four situations:

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<sup>2</sup> In mid-1990s, Government invoked the PBSO to impose a fine of \$8,000 on a franchised bus company. That bus company’s franchise was not renewed subsequently because its overall performance was unsatisfactory.

- (1) There are lost trips at certain time periods, and the total number of journeys travelled on that route falls short of the required number for that day. So there are lost trips on that day as a whole;
- (2) There are lost trips at certain time periods, but the frequencies of bus services in other periods are greater than the required number. So there are no lost trips on that day as a whole;
- (3) Under special arrangements, some buses skip certain bus stops; and
- (4) A bus fails to arrive at a bus stop on time and the delay is roughly equivalent to the scheduled interval between two buses.

22. In TD's view, only the first situation is regarded as lost trips. However, from the passengers' perspective, situations (1) to (4) should all be regarded as lost trips. The lost trip rates would certainly be higher if situations (2) to (4) were included in the calculation of lost trips. In view of the above, there is a significant discrepancy between TD's definition of lost trips and its view on delayed services on the one hand, and public expectations on the other. In fact, such a discrepancy might be relevant to the reason why the number of passenger complaints in 2012 about bus service frequencies still increased despite an improvement in the lost trip rates calculated by TD (see **para. 16**).

23. We consider that for the passengers, serious delays and special bus trip arrangements are no different from lost trips. Hence, TD should quickly review its definition of lost trips and consider calculating the number of lost trips by dividing a day into different time periods.

### **Causes of Lost and Delayed Trips**

24. TD has attributed lost and delayed trips to the following causes:

- shortage of bus drivers, inadequate buses/vehicle breakdowns;
- traffic congestion or road accidents; and
- "other reasons" such as bad weather, typhoons, road closure or traffic diversion due to public processions or major events, random checks on buses by law enforcement agencies or handling passenger problems during bus trips

25. Moreover, senior management and drivers of the bus companies are of the view that the excessive growth in the number of private cars and the serious problem of illegal parking have caused road obstructions, which in turn aggravate the problem of lost or delayed bus trips.

**Traffic Congestion**

*Travel Speed*

26. The travel speed of vehicles can often reflect the state of traffic congestion. According to the data on the travel speeds in respect of all vehicles on major roads between 2008 and 2012, the average speeds in different areas in 2012 were lower as compared with 2008. However, the data might not reflect the actual travel speeds of vehicles during the bus journeys. Buses must follow their scheduled routes and thus are more easily affected by congestion, while other vehicles can avoid the congested roads, but on the other hand, buses can benefit from traffic measures such as designation of bus lanes to remain unaffected by some congested roads. We noticed from newspaper reports quoting a bus company saying that the overall average travel speed of their buses decreased by 17% in 2012 as compared with 2007, showing that the travel speed of buses obviously became slower. TD should request the relevant data from the company concerned. If what the situation was as described, TD should conduct a review with the bus company to see whether the journey time of individual bus routes should be adjusted, the routes should be revised or bus route rationalisation should be implemented. Otherwise, TD should clarify and inform the public of the actual situation.

*Traffic Congestion and Lost Trips*

27. Whether the overall travel speed of buses has decreased in recent years is still to be verified, but traffic congestion has certainly aggravated the problem of lost bus trips. Over the past five years, the rates of lost trips caused by traffic congestion as recorded by all the bus companies were as follows:

<b>Bus company</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
KMB	0.4%	0.4%	0.5%	0.6%	0.7%
Citybus 1	0.6%	0.6%	0.9%	0.9%	1.0%
Citybus 2	0.1%	0.1%	0.1%	0.2%	0.2%
NWFB	0.7%	0.6%	0.9%	1.2%	1.3%
LW	0.0%	0.0%	0.0%	0.0%	0.0%
NLB	0.0%	0.0%	0.0%	0.0%	0.0%

As seen from these figures, three major bus companies recorded an increasing trend in their lost trip rates caused by traffic congestion.

## *Causes of Traffic Congestion*

### *Growth in the Number of Private Cars*

28. TD has kept a close watch on traffic congestion in relation to the increasing number of vehicles. In 2011, the Administration increased the first registration tax for private cars to halt the rising trend.

29. In 2008 and 2012, there were 575,106 and 653,010 registered vehicles respectively. This showed an increase of 77,904 vehicles (around 13.5%), of which 71,556 were private cars (amounting to 91.9% of the total increase in the number of vehicles) while the growth of franchised buses was negative.

30. Over the past five years, there was no significant increase in the total number of vehicles or the total length of carriageways in Hong Kong. In 2008 and 2012, the total lengths of public carriageways were around 2,040 km and 2,090 km respectively.

31. TD indicated that the actual increase in traffic flow would not be in line with that of the number of vehicles because transport facilities have their maximum capacity. Even though the total number of vehicles has increased, there may be less vehicles running on the roads because of the expected congestion and delays. This means an increase in the total number of vehicles may not lead to traffic congestion and the growth rates of road networks and vehicles may not be proportional. We consider that TD should closely monitor the situation and assess whether the increasing number of vehicles will cause traffic congestion and thus affect the travel speed of buses.

### *Illegal Parking of Vehicles*

32. In general, illegal parking is also one of the causes of traffic congestion. On receipt of complaints about illegal parking that causes obstruction to buses, TD will request enforcement action by the Police at the road section concerned. When bus operations are affected by illegal parking at a certain road section, TD will implement traffic management measures, rationalise the bus routes or adjust the bus schedules to reflect the actual journey time of the bus routes.

33. In 2011 and 2012, TD implemented improvement measures at a total of 17 locations where illegal parking had caused obstruction to buses. Such measures included requesting enforcement action by the Police and implementing appropriate traffic management measures at locations that warranted improvement. Moreover, bus companies have also approached the Police directly to request stringent enforcement actions at certain locations. TD believed that there had to be strong support from the Police to ensure the effectiveness of traffic management measures.

34. As most bus routes are planned along trunk roads where restricted zones are usually designated to prohibit loading/unloading and pulling over of vehicles, TD did

not regard the serious problem of illegal parking as a cause of lost bus trips. In this connection, our investigators have conducted site inspections at a number of locations and found that illegal parking during the specified time periods of restricted zones is common in some districts. Sometimes, it can cause serious obstruction to the buses stopping there or running through. We believe that the state of illegal parking may change after the service schedule is prepared. TD should, therefore, review the state of illegal parking and its impact on buses jointly with the bus companies and other Government departments concerned from time to time in order to work out improvement measures.

### ***Implementation of Improvement Measures***

35. To ensure more stable bus service frequencies, TD will study improvement measures with the bus companies. Such measures include adjusting bus journey time and rationalising bus routes.

#### *Adjusting Bus Journey Time*

36. Road condition can change because of social and economic development and the transport infrastructure. It may sometimes prevent buses from completing their journeys on schedule, thus resulting in lost or delayed trips. Where necessary, bus companies will apply to TD for adjusting the journey time to reflect the actual situation. Based on its observations from the routine monitoring of the bus companies, TD may also require the companies to make adjustment where appropriate.

#### *Bus Route Rationalisation*

37. Every year, TD reviews with the bus companies their bus route networks to identify those routes suitable for rationalisation in order to enhance the networks and relieve traffic congestion. In rationalising bus routes, TD is required to first consult the District Councils of the affected districts and revise the proposals if necessary. Duration of such consultation process may vary depending on the complexity of each proposal, the number of objections received and whether many districts are involved.

38. According to the data between June 2010 and May 2013, only less than 60% of the bus route rationalisation proposals submitted by TD to District Councils were implemented in the end. The implementation rate was low. We understand that bus route rationalisation (especially those proposals involving reduction in bus services) will inevitably cause inconvenience to passengers. However, allowing excessive buses to run on the roads would not only create traffic congestion but also aggravate the problem of air pollution. If the patronage of the bus routes concerned is low, it may increase costs and the likelihood of fare increase by bus companies. Hence, TD must balance the interests among different stakeholders. In fact, bus route rationalisation requires the patience, cooperation and support of various parties. We consider that TD should step up its publicity of bus route rationalisation and let the public know about the significance and advantages of such arrangements.

**Concluding Remarks on Traffic Congestion**

39. We understand that traffic congestion is not what the bus companies can control. Given that it is one of the major causes of lost or delayed bus trips, TD is duty-bound to tackle the problem. TD should, therefore, closely monitor the impact of increase in the number of vehicles on bus operations, as well as exercising tighter control on such lost and delayed trips and stepping up the publicity of bus route rationalisation.

**Shortage of Bus Drivers**

40. Another major cause of lost bus trips is the shortage of drivers. In the past five years, the rates of lost trips caused by this shortage were as follows:

<b>Bus company</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
KMB	1.2%	1.6%	4.4%	5.2%	2.6%
Citybus 1	0.2%	0.3%	0.2%	0.3%	0.8%
Citybus 2	0.1%	0.1%	0.1%	0.2%	0.2%
NWFB	0.3%	0.2%	0.4%	0.7%	1.1%
LW	0.1%	0.0%	0.3%	1.6%	2.1%
NLB	0.0%	0.0%	0.0%	0.0%	0.0%

41. The problem of lost trips caused by the shortage of bus drivers was particularly serious in 2010 and 2011 and a leading bus company (KMB) was most seriously affected. Meanwhile, the same problem in another bus company (LW) was becoming more serious in 2011 and 2012.

42. All bus companies retain a certain number of reserve drivers to take the place of drivers who are temporary absent from duty or on leave. Nevertheless, lost trips still occur due to staff wastage and failure of bus companies to quickly recruit new drivers. Since training for new recruits takes time and some reserve drivers are not familiar with certain bus routes, bus companies may have difficulties in finding the right driver for the bus routes even if they have retained reserve drivers. TD and senior management of the bus companies have pointed out that the two major reasons for the shortage of drivers are changes in the labour market that made “bus driver” a relatively unattractive job and the increasing turnover rate of serving drivers. TD had discussed the issue with the management of the bus companies concerned, and the latter implemented a number of improvement measures in 2011 and 2012. The situation has improved since then.

43. Nonetheless, the shortage of bus drivers has remained a problem and it is becoming more serious in three bus companies. TD should take the matter seriously. In KMB's case, it was definitely not desirable that the company needed two years to improve the problem of lost trips caused by this shortage. Since it is the bus companies' responsibility to employ adequate drivers and this is within their control, TD should act quickly and urge the companies to solve the problem whenever there is any hint of a shortage.

### **Inadequate Buses and Vehicle Breakdowns**

44. Lost trips are to a certain extent caused by inadequate buses and vehicle breakdowns and both factors are within the control of bus companies. We consider that TD should discuss with the bus companies the major reasons for inadequate buses and vehicle breakdowns and work out appropriate improvement measures.

### **“Other Reasons”**

45. Quite a number of lost trips are due to “other reasons” (see **para. 24**). We consider that TD should carefully analyse the reasons which are now grouped under “other reasons” and find a solution to solve the problem of lost trips where appropriate.

### **“Phantom Buses”**

46. In mid-2012, there was newspaper coverage about a franchised bus company trying to quickly “doctor the records” by sending buses to travel to the terminus directly from a nearby bus stop and then count it as a full trip. Such bus services were described by the media as “phantom buses”.

47. In response, TD immediately took a number of follow-up actions and examined some routes of the bus company concerned. According to TD, no concrete evidence was found after investigation to prove that the bus company had arranged those so-called “phantom buses” to run on the routes.

48. We consider such allegation of “phantom buses” a serious accusation. TD should follow closely the media coverage, launch an investigation and inform the public of its findings where appropriate.

## **Handling Bus Complaints**

49. As regards complaints about bus services relating to irregular service frequencies, lost trips or delays, TD will require the bus companies concerned to give an explanation and submit their relevant operational records for examination. Meanwhile, TD will generally issue reminder letters to urge the companies to improve. Depending on the situation, TD may also conduct surveys on the bus routes.

50. Where non-compliance with the service schedule is found in a bus company and the reasons for lost trips or irregular service frequencies are beyond the control of the bus company (e.g. traffic congestion and road accidents), TD will work out improvement measures with the company if necessary.

51. If the reasons for lost trips or irregular service frequencies are within the control of the bus company (e.g. shortage of bus drivers and buses and vehicle breakdowns) and the company fails to provide a reasonable explanation or make prompt improvement, TD will issue another reminder letter to demand immediate improvement measures. Should the problem persist, TD will issue a warning letter.

52. TD has no rigid rules on when such warning letters should be issued. It depends on how persistent and serious the problem is.

53. Upon receipt of a written complaint, TD will issue an acknowledgement in 5 working days, followed by a reply to the complainant within 10 working days. For complicated cases, an interim reply would be issued before giving a substantive reply within 21 working days. While exceptionally complicated complaint cases might require a longer time to process, TD would explain the reasons to the complainant as appropriate.

## ***Case Studies***

54. After collecting the views from the general public and examining the details of complaint cases, this Office has summarised below the public's dissatisfaction towards TD's complaint handling procedures:

- TD merely referred their complaints to the bus companies without taking up any investigation itself;
- the public had doubts over how TD verified the veracity of the information provided by the bus companies in response to complaints;
- TD took too long to respond to complaints; and
- TD failed to solve the problems of lost or delayed bus trips.

55. We had selected a number of complaint cases for more detailed examination. The following table is a summary of our observations in three of those cases.

Case	Our Observations
Case 1	<ul style="list-style-type: none"> <li>● TD actually checked the operational records submitted by the bus company earlier and conducted route surveys. Its response time generally met the requirements of its internal guidelines.</li> <li>● The complainant had lodged similar complaints time and again within a year or so, but TD only treated them the way it did a single complaint. Each reply, citing the content of the complaint in hand, was in the same format and pattern: giving an explanation for the irregular service frequencies, informing the complainant of the investigation results, and undertaking to continue to monitor the situation. There was no mention of specific improvement measures or expected service improvements. Besides, its replies were mostly a repetition of earlier responses. No wonder the complainant felt aggrieved and made persistent complaints.</li> </ul>
Case 2	<ul style="list-style-type: none"> <li>● During the initial stage of TD's investigation, the bus company admitted to bus drivers taking leave and traffic accident being the causes of irregular service frequencies. So there was no need for TD to conduct more in-depth investigations into the causes of individual complaints. It was commendable that TD not only sought an explanation for individual cases, but also conducted route surveys and scrutinised the lost trip rates of the bus routes concerned in order to obtain an overall picture of the problem of lost trips.</li> <li>● Nevertheless, TD failed to take further follow-up actions when bus drivers taking leave had repeatedly led to irregular bus services. That was far from satisfactory.</li> </ul>
Case 3	<ul style="list-style-type: none"> <li>● TD did not merely refer the case to the bus company concerned, it also checked the operational records submitted by the company earlier, and conducted route surveys where warranted. When the complainant raised doubts, TD was also serious enough to cross-check in different ways whether the explanation given by the bus company was true. It was also able to clear the doubts raised by the complainant on certain matters.</li> <li>● As TD failed to address effectively the complainant's concern over the problem of lost and delayed trips, or to explain</li> </ul>

Case	Our Observations
	<p>clearly in its replies the mid- and long-term improvement measures it would take, the complainant remained dissatisfied with TD's responses.</p> <ul style="list-style-type: none"> <li>• Although TD could not meet its internal performance pledges every time when replying to the complainant, that was understandable because some of the complaints were more complicated and TD had to ask the bus company several times for explanations and additional information, hence a longer time in issuing replies. Nevertheless, TD officers should have followed internal guidelines and issue interim replies to explain to the complainant as appropriate.</li> </ul>

### ***Our Overall Observations of TD's Complaint Handling***

#### *Investigation and Verification*

56. Resource constraints meant that TD officers could not possibly verify all the information provided by the bus companies or arrange for route surveys on each and every complaint. However, if a certain route had already attracted a large number of complaints, or when a complainant had lodged the same complaints repeatedly, then TD should consider verifying the information provided by the bus company. Its reply to the complainant should give a full explanation in order to address the complainant's concerns.

57. Currently, TD does not have any guidelines to help its officers to determine in what circumstances verification of information or site investigation would be warranted.

#### *Response Time*

58. It is understandable that for more complicated cases, TD needed to ask several times for explanation and further information from the bus companies. Therefore, it would take more time before issuing replies to the complainants. Nevertheless, interim replies should be issued as appropriate.

#### *Replies to Complainants*

59. For most of the complaint cases, TD officers had actually conducted proper investigations and tried their best to provide answers to members of the public. However, they remained dissatisfied because, after all, the problem of delayed trips had not been really resolved.

60. In its replies to the public's complaints about lost bus trips, TD did not mention the overall lost trip rates of the bus routes concerned. It also did not have a full picture of the extent of the problem of delayed trips because of inadequate data. Only generalised replies could be made in response to most of the complaints. This would just lead to doubts over whether TD had followed up the complaints seriously. We consider that in replying to complainants, TD should try its best to provide sufficient and specific information and data. A detailed explanation of its follow-up actions can also help to clear their doubts.

### **Overall Comments and Recommendations**

61. The results of this direct investigation revealed that there are three major inadequacies in TD's mechanism for monitoring the frequencies of bus services:

- great discrepancy between the lost trip rates as perceived by the general public and those as recorded by TD;
- failure to make good use of the operational data provided by the bus companies for conducting in-depth analysis of issues of public concerns such that monitoring of bus services can be strengthened; and
- deficiencies in the current system of sanctions against the bus companies.

62. Furthermore, although TD officers were serious in handling and responding to most of the complaints about lost or delayed bus trips, the lack of substantive answers in their replies to complainants constituted a source of discontent.

63. The Ombudsman has made 14 recommendations to TD. The major ones include:

- (1) to review the current system of sanctions (see **para. 18**)
- (2) to examine the problem of delayed bus trips and conduct relevant data analysis. Where necessary, TD should require the bus companies to include those relevant data as well in their regular submission of operational records (see **para. 20**);
- (3) to quickly review its definition of lost trips and consider calculating lost trip rates separately for different time periods (see **para. 23**);
- (4) to gauge closely if the increase in the number of vehicles would lead to traffic congestion and affect the travel speed of buses (see **para. 31**);

- (5) to step up publicity for bus route rationalisation plans to facilitate their implementation and let the public understand the importance and advantages of such plans (see **para. 38**);
- (6) to continue to monitor the problem of bus drivers shortage in the bus companies. Once there is a hint of such shortage, it should take follow-up actions as soon as possible and urge the bus companies concerned to solve the problem promptly (see **para. 43**);
- (7) to consider drawing up internal guidelines to help its officers to determine in what circumstances verification of information and site investigations should be arranged (see **para. 57**); and
- (8) to try its best to provide sufficient and specific information and data, as well as a detailed explanation of its follow-up actions in its replies to complainants with a view to clearing their doubts. (see **para. 60**).

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