

*Issue No. 2 of Reporting Year 2013/14
(24 October 2013)*

Office of The Ombudsman, Hong Kong

*Direct Investigation into
Regulation of Sale of Chilled Meat*

The Ombudsman has completed a direct investigation into the regulation of sale of chilled meat by the Food and Environmental Hygiene Department (“FEHD”).

FEHD has set strict criteria for the sale of chilled meat in shops, requiring that chilled meat be stored in refrigerators at a temperature between 0°C and 4°C. Nevertheless, we find that FEHD’s inspections are infrequent and the informal verbal warnings it issues are not effective. Moreover, shops with irregularities are allowed too much time for rectification and FEHD’s issue of new licences to offenders is too lenient. Publicity and public education are also inadequate. As a result, it is very common that shops improperly store and display chilled meat without refrigeration.



The Ombudsman has made a total of eight recommendations to FEHD for improvement, including: to increase the frequency of inspections; to draw up clear operational guidelines; to instruct its inspectors to take immediate enforcement actions where shops with irregularities, albeit in “minor”, violate the rules again; and to enhance publicity and public education.

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

***Direct Investigation into
Control of Healthcare Professions Not Subject to
Statutory Regulation***

The Ombudsman has completed a direct investigation into the monitoring and review mechanisms of the Department of Health (“DH”) on the healthcare professions not subject to statutory regulation.

DH all along emphasises that it adopts a risk-based approach to assess whether statutory regulation should be introduced for a particular healthcare profession. However, our investigation reveals that it has not conducted any systematic analyses at all. DH also considers that voluntary society-based registration can be an effective alternative to statutory regulation. Again, DH in fact shows no interest to the operation and development of such societies. That means, DH has neither monitored the service standards of unregulated healthcare personnel, nor reviewed the need for putting them under statutory regulation.



The Ombudsman has made a total of seven recommendations to DH for improvement. In particular, DH is urged to conduct regular risk-based analysis on the need to put any healthcare personnel under statutory regulation, map out a long-term strategy to strengthen regulatory control of unregulated healthcare personnel and enhance communication with the relevant societies.

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

***Summary of Investigation Report
Complaint against Transport Department about
Handling of Taxi Complaints***

The Ombudsman has completed an investigation into a complaint against the Transport Department (“TD”) for failing to properly handle the complaint from a taxi passenger about poor taxi services.



Our investigation revealed that, under the current practice, TD would not take any action directly against the driver under complaint. Instead, it would issue an advisory letter to the taxi owner in the hope that the owner would exert pressure on the driver.

As the number of complaints against taxi services has been on the rise in recent years, The Ombudsman considers it necessary for TD to consider ways to improve the current system with a view to raising the

overall standard of taxi services. A number of recommendations were made to improve the system, which TD has readily accepted.

The summary of the investigation report is at **Annex 3**.



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, Hong Kong
24 October 2013

Executive Summary

Direct Investigation Regulation of Sale of Chilled Meat

Background

Chilled meat such as chilled pork and chilled chicken is an imported food item frequently consumed by Hong Kong people. All shops selling chilled meat must hold a Fresh Provision Shop Licence issued by the Food and Environmental Hygiene Department (“FEHD”). One of the licensing conditions is that chilled meat must be kept in a refrigerator and stored at a temperature between 0°C and 4°C. We note that violation of this licensing condition is however quite common. Some shops even appear to be selling chilled meat fraudulently as fresh meat for higher gain.

2. This direct investigation aims to identify any inadequacies and room for improvement in FEHD’s regulation of shops selling chilled meat.

Our Findings

Risks to Consumers Posed by Improper Storage

3. Professor Yuen Kwok Yung, microbiologist and expert in infectious diseases of the University of Hong Kong, conducted a study commissioned by FEHD between 2007 and 2008. His study revealed that pathogens on the carcass of a slaughtered chicken exposed to an environment of 25°C (i.e. room temperature) for 24 to 48 hours would multiply quickly, posing a health risk to consumers, whereas if the storage temperature was maintained at 7°C instead, their growth could be effectively inhibited.

4. The Centre for Food Safety (“CFS”) of FEHD also points out that if a piece of meat is placed in an environment of unsuitable temperature or high humidity, the micro-organisms (including bacteria and mould) on it can breed to great quantities, resulting in spoilage of the meat and degradation of its flavour. Consumption of meat containing pathogens, if not fully cooked, can also lead to food poisoning.

5. According to the Department of Health, storing food at an unsuitable temperature will accelerate the growth of pathogens (including bacteria) on the food. Some bacteria can produce heat-resisting toxins. Although thorough cooking may kill those bacteria, the toxins may remain in the cooked food and cause food poisoning.

6. In view of the expert opinions cited above, this Office has come to the following conclusion. Since transportation of chilled meat from the slaughterhouse to the retail shops usually takes a long time, chilled meat must be kept at a low temperature throughout the process. If it is stored and displayed at room temperature, the pathogens on its surface will grow quickly and may produce heat-resisting toxins, posing a health risk to consumers.

Irregularities of Shops

7. Our investigation officers have inspected a total of 46 shops selling chilled meat at different markets in various districts of the territory. Irregularities were found in over 60% of them (29 shops), including chilled chickens being displayed in plastic containers with no refrigeration, and what appeared to be chilled chickens, being displayed without their wrappings on open shelves with no refrigeration apparently for sale as fresh chickens. Our investigators inspected those shops again a month later and still found irregularities in about half of them (21 shops).

FEHD's Inspection and Warning Systems

8. FEHD assesses the risk level of each fresh provision shop by reference to a set of criteria including the type of food it sells, its mode of operation and its food hygiene records. "High risk" shops are inspected once every 4 weeks and "medium risk" shops once every 10 weeks. Over 90% of the shops selling chilled meat are categorised as "low risk", and FEHD inspects those shops only once every 20 weeks.

9. If during an inspection a shop is found to be storing or displaying chilled meat in an improper manner, FEHD's health inspector will issue a "verbal warning" to the licensee under the Department's "Warning Letter System" and advise him/her to rectify the irregularities within 2 days, after which a review inspection will be conducted. If the licensee fails to rectify the problem within the specified timeframe, or if the same irregularity is found again at the shop within 6 months after the verbal warning, a "warning letter" valid for 6 months will be issued to the licensee. The licensee will be allowed 6 days to rectify the problem. Should he/she fail to comply, FEHD will issue another warning letter. If a licensee is issued 3 warning letters within 6 months, FEHD will consider cancelling his/her licence.

10. In case of "minor" irregularities (such as displaying a small quantity of chilled meat without refrigeration) and where the licensee or person-in-charge takes immediate rectification action, the health inspectors will normally not issue the aforesaid verbal warning. Instead, a "general verbal warning outside of the Warning Letter System" (known as "informal verbal warning") would be issued. For such informal verbal warnings, no review inspection will be conducted.

Our Comments

Stringent Requirement but Lax Control

11. By way of its licensing system, FEHD strictly requires that chilled meat be stored at a temperature between 0°C and 4°C. Surely, the intent of this requirement was based on the Department's serious concern over the health risk of chilled meat being stored or displayed at an unsuitable temperature. In reality, however, FEHD's monitoring of the shops is terribly lax. Irregularities are common among shops, and the stringent requirement is there for nothing.

Ineffective Enforcement and Infrequent Inspections

12. We note that shops very often display chilled meat at room temperature. Nevertheless, the incidence of enforcement actions by FEHD during the past four years was extremely low. Only about 10 verbal warnings, fewer than 10 reminders and just a few warning letters were issued every year under the Warning Letter System. This shows that FEHD's enforcement is weak and that the Department has almost turned a blind eye to irregularities.

13. At present, a vast majority of shops selling chilled meat are categorised as "low risk" and FEHD inspects them only once every 20 weeks. If a shop, on account of an irregularity, receives a verbal warning valid for 6 months under the Warning Letter System, all it needs to do is to make temporary improvement within the specified timeframe (2 days) and the irregularity can resume for the subsequent 20 weeks. The irregularity will go unnoticed, as FEHD will not conduct any inspection during those 20 weeks. The shop only needs to comply with the licensing conditions again sometime before the next inspection, and will then have a clean slate again. Clearly, FEHD's inspections are too infrequent, with minuscule monitoring effect. This renders the 6-month validity period of a verbal warning virtually useless.

Informal Verbal Warnings Lack Deterrent Effect

14. When an irregularity is found, FEHD usually just issues an informal verbal warning to the shop concerned. However, informal verbal warnings are almost totally ineffective as they have no binding effect and there is no follow-up mechanism.

15. FEHD initially indicated that its staff would only issue an informal verbal warning to those who displayed a small quantity of chilled meat at room temperature and rectified the irregularity immediately afterwards. Nevertheless, when asked to define "small quantity", FEHD then clarified that it would consider not only the quantity of the meat but also other factors. In the absence of clear guidelines on when to issue an informal verbal warning, enforcement action is up to individual officers' judgement and there can be much variance. Officers tend to be lenient to minimise conflicts with shop operators.

Excessive Time Allowed for Rectification of Irregularities

16. FEHD explains that under the Warning Letter System, grace periods of 2 and 6 days respectively are given to shop operators so as to allow them time to rectify their irregularities after receiving verbal and written warnings. We consider the time allowed too long. Surely, to rectify such irregularities, the shop operator just needs to stop displaying chilled meat at room temperature. Normally, little or no time is required for gearing up. Therefore, except in special circumstances, FEHD should take decisive and stringent measures, such as requiring immediate rectification by the shops, to protect consumers.

17. Subsequent to our commencement of this direct investigation, FEHD has issued an internal guideline, instructing its staff to demand immediate rectification by shop operators regarding improper storage or sale of chilled meat.

Control of Licence Holders Too Lenient

18. We notice that shop operators whose licences are suspended or cancelled can apply for similar licences afterwards without any restrictions, provided that they do not voluntarily surrender their licences to evade the penalty of licence suspension or cancellation. We find FEHD too lenient in not setting any such restrictions. It has not duly taken into account whether an applicant is a “fit and proper person” to be a licensee. Whether a licence has been cancelled or voluntarily surrendered should make no difference to FEHD when it considers an application from the same operator for a new licence.

Need for Stronger Actions against Unlicensed Operators

19. We have also noticed that some shops have started doing business while FEHD is still processing their licence applications. FEHD should, therefore, expedite its processing of applications. FEHD should also take stronger actions against shop operators who have no intention of applying for a licence at all.

Need for More Rigorous Investigation on Sale of Chilled Meat as Fresh Meat

20. Our site inspections, case studies and FEHD’s statistics on enforcement actions have all revealed cases of shops appearing to be selling chilled meat as fresh meat. Those shops usually display chilled meat at room temperature for sale. They not only cheat their customers but also create food safety hazards. FEHD should, therefore, conduct more inspections and enhance the ability and efficiency of its officers in collecting evidence to prosecute those offenders.

Inadequate Publicity and Education

21. The public have not thus far paid much attention to the common practice of shops improperly storing or displaying chilled meat at room temperature. Most

people may not realise the impropriety of such acts and the health risk of consuming such chilled meat. Even if they fall sick after consumption, they may not associate their sickness with the improper storage or display of the chilled meat. Hence, they would not bother to lodge a complaint.

22. We believe that when consumers are better informed and become more alert, they will make their purchase wisely and report irregularities. This would become a significant force in monitoring the shops, and would in turn help FEHD in the regulation of sale of chilled meat.

Our Recommendations

23. The Ombudsman makes the following recommendations to FEHD:

- (1) to suitably raise the risk category of shops selling chilled meat and increase the frequency of regular inspections of shops, particularly those that have already been given formal or informal warnings; also to conduct surprise inspections on shops that have received warnings to ensure more effective monitoring and curb the prevalent problem of improper storage of chilled meat;
- (2) to define “minor” irregularities clearly, having regard to food safety requirements, and require strict observance by inspectors; also to instruct inspectors to issue a verbal warning under the Warning Letter System immediately in case of a subsequent offence by a shop with a “minor” irregularity, whether the new offence involves a “minor” or major irregularity;
- (3) to strictly require prompt action by shop operators to rectify their irregularities after receiving a verbal warning or warning letter; failing which, FEHD should immediately step up its enforcement action under the Warning Letter System;
- (4) for any person whose Fresh Provision Shop Licence has previously been cancelled due to repeated offences, to refuse to process within a specified period of time any application by that person or his/her representative for a fresh provision shop or related licence in respect of the same premises;
- (5) to expedite the processing of licence applications for fresh provision shops in order to minimise unlicensed operations by applicants, and to take stronger enforcement actions against those shop operators who have no intention of applying for a licence at all;

- (6) to conduct more rigorous investigation on cases of sale of chilled meat as fresh meat and enhance the ability and efficiency of staff in collecting evidence to prosecute those offenders;
- (7) to release information through the media about shops which are persistently involved in irregularities and upload such information on to the websites of FEHD and CFS for easy public access, thus helping to safeguard the health of consumers and deter offences; and
- (8) to enhance publicity and public education through various channels to inform citizens that shops must store and display chilled meat at 0°C to 4°C, that failure to do so is a breach of the licensing condition and will speed up the spoilage of the meat, which will possibly result in food poisoning and other health risks even if the meat is cooked.

**Office of The Ombudsman
October 2013**

EXECUTIVE SUMMARY

Direct Investigation Control of Healthcare Professions Not Subject to Statutory Regulation

Background

In Hong Kong, statutory regulation of healthcare professions can be traced back to the 1950's with the enactment of the Medical Registration Ordinance and the Dentists Registration Ordinance. Nurses, midwives, pharmacists and dental hygienists were put under statutory regulation in the 1960's. The Supplementary Medical Professions Ordinance (Cap 359) was enacted in 1980 to regulate five more disciplines which included medical laboratory technologists, occupational therapists, physiotherapists, radiographers and optometrists. The practice of chiropractors and Chinese medicine practitioners were regulated in 1993 and 1999 respectively in view of their popularity. Since then, no more healthcare professions have been put under statutory regulation.

2. However, from time to time, media reports suggested that the health of the public might be at risk as a result of emergence of new types of treatments that have healthcare implications and substandard service provided by practitioners providing such treatments. Recent incidents concerning improper treatments by beauty salon practitioners pointed to the need for tighter monitoring and review of the regulatory regime for healthcare professions. Hence, The Ombudsman initiated this direct investigation on 21 January 2013 to examine whether the current control mechanism is sufficient and identify areas for improvement.

Regulatory system in Hong Kong

3. DH all along adopts a risk-based approach to consider whether a particular healthcare profession should be subject to statutory regulation. The major consideration is the nature and scope of work of the professionals and the risks associated with their practices. Other considerations include patient interface, size of profession, employment distribution in public and private sectors and presence of alternative control (ie society-based registration system). In general, healthcare personnel who perform invasive or critical procedures are accorded with higher priority for statutory regulation.

Statutory Regulation

4. In Hong Kong, currently around 87,000 healthcare professionals from 13 disciplines are subject to statutory regulation. The regulatory bodies formed under respective pieces of legislation are given the power to prescribe the registration requirements, establish disciplinary mechanism to handle and investigate complaints and take disciplinary actions against their members.

Society-based Registration

5. Under society-based registration, professional bodies concerned administer an enrollment system and promulgate a list of qualified members to enable members of the public to make informed choices when seeking certain healthcare services. To provide quality services to the public, some professional bodies may also adopt a professional code of practice, encourage their members to pursue continuing professional development, develop quality assurance scheme and devise a disciplinary mechanism to ensure that only qualified personnel could stay on their lists. According to DH's manpower survey conducted in 2009, over 7,300 practitioners were engaged in 15 healthcare sectors not subject to statutory regulation. All these 15 healthcare disciplines have established associations/societies and have maintained membership registers.

DH's monitoring and review system

DH's position

6. DH considers that excessive regulation may pose unnecessary barriers to market entry, discourage competition and cause resource implications to society. Statutory regulation of healthcare professions should, therefore, be called for only when there is evidence showing that the practice of a healthcare profession has demonstrated an unacceptable level of risk to the public.

7. DH also considers that, while there are healthcare personnel not specifically regulated, there is legislation in place to guard the public against general medical malpractices. Moreover, under common law, all healthcare practitioners have a duty of care towards their patients, and they are required to exercise due care and skill reasonably expected of them as competent practitioners practising in the field. Any aggrieved patients may seek legal remedy/redress through civil litigation.

DH's monitoring

8. DH has developed certain guidelines, codes of practice, surveillance and reporting systems, market assessment, risk monitoring and risk communication vehicles. DH adopts these administrative tools to ensure safety of medical devices and Western medicines. It also collaborates closely with other bodies, such as law enforcement agencies, consumer advocates and regulatory bodies, to handle complaints about healthcare services, including even those not within its own portfolio.

Administration's review

9. The Administration set up a high-level steering committee, chaired by the Secretary for Food and Health in January 2012, to conduct a strategic review on healthcare manpower planning and professional development. It will cover and focus on the regulatory structure for the healthcare professions, including the functions and composition of the existing regulatory bodies for healthcare professionals. For other healthcare professions not statutorily regulated at the moment, the review will also look into matters relating to their future development, including whether or not they should be subject to regulatory control of some form.

10. In addition, The Secretary for Food and Health has been meeting representatives of various healthcare professions to discuss issues of mutual interest every one or two years.

Our Observations

11. We believe that statutory control will allow DH to closely monitor qualified healthcare personnel and prevent unqualified personnel from practising, whereby professional conduct of the practitioners can be upheld and their professional standard enhanced. In other words, the quality of treatment and service standard can be guaranteed.

12. While it is accepted that not all healthcare professions need to be regulated by Government and probably even less by statutory control, it is imperative that DH should be vigilant on any risks that practices of unregulated healthcare personnel may bring to the public. However, from information provided by DH, no effective mechanism is currently in place to monitor the service standards of unregulated healthcare personnel and review the need for statutory regulation as media have reported alleged malpractices of unregulated healthcare personnel from time to time. In the course of our investigation, we observed the following deficiencies:

Monitoring Mechanism

Lack of complaint information

13. DH only keeps complaint figures against unregulated healthcare personnel it employs. These figures do not cover personnel in six of the 15 disciplines and those working in private sector. Worse still, DH keeps no complaint statistics about other healthcare disciplines not falling into its healthcare framework. Thus, the information collected is incomplete and insufficient.

Lack of information exchange

14. Although DH had established a long term working relationship with the Consumer Council, yet a mechanism to analyse the information of safety related complaints only started in October 2012, a few months after our inquiry on this subject and an incident of improper treatment in a beauty salon resulting in death and injuries. Furthermore, DH took no initiative to obtain complaint statistics or the details of malpractice of their members from the societies of unregulated healthcare personnel.

No monitoring on societies and service standard of their members

15. DH emphasises that voluntary society-based registration can be an effective alternative to statutory control. However, we do not find DH to have provided any assistance to relevant societies or made genuine efforts to understand how they are organised and how their regulatory schemes operate. We find that some of the societies do not have a homepage for public access or provide its members' list to patients for reference. Also, DH seems to show no interest whether they have any code of practice/conduct and appears to be unaware of their operation and development.

Review mechanism

No review mechanism

16. DH did not conduct any consultation or review to assess the need for putting any healthcare personnel under statutory control since the enactment of Cap 359 in 1980. There is no specific plan or timetable to do so. Nor is there any mechanism to trigger such review.

Lack of communication with societies

17. DH did not establish a formal communication channel with the societies of unregulated healthcare professionals to help promote their development in accordance with the self-regulatory system. In the past, open forums with the representatives of healthcare sectors were held to discuss healthcare-related issues only at irregular intervals. Meeting with representatives of unregulated healthcare personnel for the discussion of statutory regulation was for the first time arranged in June 2012. There was no such meeting between 1980 and 2011.

Role of DH

18. DH has the duty to assure the qualification of the healthcare personnel in order to maintain a high quality of healthcare service. DH discharged such duty in the past by putting 13 healthcare professions under its regulatory framework. However, our investigation reveals that DH did not have any monitoring mechanism on the operation of unregulated healthcare personnel. Nor did DH have any review mechanism on the need to put them under statutory regulation.

Recommendations

19. The Ombudsman has made seven recommendations to DH, as follows:

- (1) To collect relevant complaint statistics for conducting regular risk-based analyses (**para. 13**);
- (2) To enhance communication with the law enforcement agencies, related organisations and societies for gathering relevant complaint information for risk-based analyses (**para. 14**);
- (3) To consider providing guidance to societies of healthcare personnel not statutorily regulated on monitoring the qualification and service standard of their members (**para. 15**);
- (4) To follow up cases related to malpractice of unregulated healthcare personnel in order to assure that the service provided meets the standard as required (**para. 15**);
- (5) To examine the complaint statistics periodically for analysing whether more stringent regulation should be introduced to a particular group of healthcare personnel (**para. 16**);

- (6) To discuss with its policy bureau in the Administration to map out a long-term review strategy for the scope and ways to strengthen regulatory control of unregulated healthcare personnel and also the need for putting them under statutory control (**para. 16**); and
- (7) To enhance communication with societies of unregulated healthcare personnel for exchanging opinions regularly (**para. 17**).

20. DH has indicated its welcome of the above recommendations and undertook to take appropriate follow-up actions.

Office of the Ombudsman
October 2013

Summary of Investigation Report

Complaint against Transport Department about Handling of Taxi Complaints

The Complaint

A taxi passenger (“the complainant”) complained to the Transport Complaints Unit (“TCU”) about the poor attitude of a taxi driver. He provided the driver’s name and taxi driver identity plate (“TDIP”) number but TCU said that the taxi vehicle registration number (“VRN”) was required. The complainant considered that TCU should be able to obtain the driver’s information from the Transport Department (“TD”) based on the TDIP number, but TCU said TD would not provide such information. The complainant thus lodged a complaint with this Office against TD.

Our Findings

Background

2. There are around 18,100 taxis in Hong Kong and over 210,000 drivers with taxi driving licences. Among them, around 57,000 are active taxi drivers.
3. TD and the Police are the major government departments that monitor and regulate taxi services. In general, the Police has the power to take enforcement action against taxi drivers’ mal-practices and misbehaviours, while TD is mainly responsible for the general planning, development and monitoring of taxi services, including handling of complaints from the public. TD does not have enforcement power under the law.
4. TCU is the principal agent that receives transport complaints. For complaints relating to taxi services, TCU would refer the case to TD or the Police according to the complainant’s intention and the nature of the case.
5. In general, complaints amounting to suspected criminal offences, like overcharging and touting, will be referred to the Police for investigation. The Police will try to identify the taxi drivers concerned and take further action including prosecution if the situation warrants. Complaints which are related to the general mis-behaviour of taxi drivers will be referred to TD for follow up actions, normally by way of liaison with the taxi trade and issuance of advisory letters.
6. If the complainant does not request any follow up actions, TCU will monitor the case. If another complaint against the same taxi is received within 12 months, both the former and the latter complaints will be referred to TD or the Police as appropriate.

7. For most of the complaints, the complainants are unwilling to be involved in the subsequent investigation/prosecution proceedings or to testify in court. In such case, the complaint cannot be referred to the Police for investigation or prosecution. As there are usually only two parties involved in the incident – the driver and the passengers – in the absence of other independent evidence, TD is unlikely to be able to judge whether the complaint is substantiated or not. Against such background, TD will only ride on those complaints to educate and urge the taxi trade to enhance their service standard.

TD's position

8. Under the current practice, TD does not issue advisory letters direct to the drivers under complaint. TD considers that the most cost-effective means to exert pressure and prompt those misbehaving taxi drivers to improve their service is for the relevant taxi owners to reason with or warn them direct. Upon receipt of complaints from TCU, TD will, based on the taxi VRN (i.e. the car plate number) concerned, identify and issue advisory letters to the taxi owners so that they may exert pressure on the drivers for improvement. Therefore, complainants are required to provide the taxi VRN when lodging complaints to TCU.

9. During the period between March 2011 and March 2013, TD issued about 2,300 advisory letters to taxi owners. A breakdown of the nature of complaints is at **Appendix 1**. During the same period, TCU referred 3,479 cases to the Police for investigation. A breakdown of the nature of complaints is at **Appendix 2**.

10. TD believes that issuing advisory letters to taxi owners is the most cost-effective way in handling taxi complaints because:

- (i) Mal-practices and misbehaviours of the taxi driver would eventually lead to prosecution for breaching traffic regulations. The taxi owner would then be involved in the investigation and legal proceedings. In some serious cases, the taxi involved may be damaged in a traffic accident or impounded by the Police. All these will incur heavy time and financial costs to the owner. Therefore, it is in the interest of taxi owners to promote proper driver behaviour.
- (ii) Big taxi companies keep proper records on the drivers who rent their vehicles. A driver having a bad track record in one company would likely be rejected by all companies. For small companies and individual taxi owners, they prefer renting their taxis to people they know and trust as this involves property in which they have a big financial interest. Under such circumstances, drivers with improper behaviour will find it hard to rent a taxi.
- (iii) The current practice is supported by the taxi trade.

11. Also, there are practical difficulties for TD to issue advisory letters to the drivers direct. As there are over 210,000 taxi driving licence holders in Hong Kong, if the complainant can only provide the name of a taxi driver, there is a possibility that the name matches more than one taxi driver. Besides, TD believes that without involvement of the taxi owners, the taxi drivers will very likely ignore the advisory letters, particularly when TD does not have any enforcement power under the law.

Our Comments

12. The focus of this investigation is whether the current system adopted by TD is reasonable and effective in deterring the poor performance and behaviour of taxi drivers.

13. We do not dispute that TD's current practice of issuing advisory letters to taxi owners can help to monitor the performance of taxi drivers and deter misbehaviours. We accept that taxi owners do have the incentive to ensure that their taxi drivers are behaving properly. Even if the complainant can only provide the taxi VRN but not the driver's name (together with information like the time and location of the incident), the taxi owner should have no difficulty in providing the driver's name to TD or Police for follow-up action if necessary. As such, we consider that the current practice of issuing advisory letters to taxi owners should continue.

Issuing Advisory Letters to Taxi Drivers

14. While we agree that the current system is largely reasonable and effective, we consider that there is definite room for improvement. We note that there could be more than one driver with the same name. But in cases such as the present one where the complainant was able to provide the driver's name as well as his TDIP number, TD should have no problem identifying the exact driver. While agreeing that the effect of issuing advisory letters to taxi drivers may be limited, we do not think this will have no positive value at all. It can at least provide useful feedback to the driver that his/her behaviour is attracting complaints. Therefore, we consider that in this case even if the complainant cannot provide the taxi VRN, TCU can still take up the complaint.

Monitor complaints on driver basis

15. At present, TCU has a system to monitor complaints on a vehicle basis. We consider that TD/TCU may also set up a system to monitor complaints on a driver basis. This information should be even more effective in deterring poor driver behaviour.

16. In order for this system to be effective, TD needs to educate and facilitate the public to mark down the TDIP number of the driver concerned when lodging complaints. The TDIP number of the driver is currently shown in his/her taxi driver identity plate, but not elsewhere inside the taxi. TD may need to consider ways to

make it easier for the public to obtain the information (such as including this information in the taxi receipt).

Step-up action for repeated offenders

17. At present, TD does not require the taxi owner to report back on their follow-up actions. We are of the view that, if the number of complaints against a particular taxi or driver reaches a certain level (say, two complaints in a year), TD should consider stepping up its actions, like requiring the taxi owner to report back on the follow-up actions taken.

Education and Publicity to Passengers

18. We have also examined whether passengers are well informed of the need to record the taxi VRN when lodging complaints against taxi drivers. We observe that the message is mentioned in the leaflet posted on TD's website (**Appendix 3**). At the same time, TCU's website has a Taxi Complaint Form which requires the complainant to input the taxi VRN as well as the driver's name. However, it does not mention in the form that TCU cannot take up the complaint if the complainant cannot provide the taxi VRN. Since TCU is the main agent receiving transport complaints, TD may consider discussing with TCU to remind the public on its Taxi Complaint Form of the importance to record the taxi VRN when lodging complaints against taxi drivers. Moreover, TD may consider spelling out this message clearly inside the taxi as well.

19. In addition, we understand that getting a taxi fare receipt can serve as useful evidence for the complaint. TD may wish to step up publicity and advise the passengers to obtain a receipt from the driver if he/she wants to lodge a complaint.

Conclusion

20. According to the latest statistics of TCU (**Appendix 4**), taxi was the largest source of complaint in the past three years. In view of this, we consider it necessary for TD to consider ways to improve the current system with a view to raising the overall standard of the taxi service. This complaint has given an opportunity for the Ombudsman to examine the current complaint handling mechanism for taxis. We hope TD can make good use of this opportunity to review its current system and identify areas for improvement.

21. Since TD has followed the established procedure in handling the complainant's complaint, and we find the current system largely reasonable and effective, this Office considers the complaint **unsubstantiated**, but the current system shows areas for improvement.

Recommendations

22. The Ombudsman recommends that TD should discuss with TCU the following ways to improve the system of complaint handling on taxi services:

- (i) Take up a complaint even where only the taxi driver but not the owner can be identified, by issuing an advisory letter to the driver;
- (ii) In addition to monitoring complaints on a vehicle basis, set up a system to monitor complaints on a driver basis;
- (iii) Step up education to the public in lodging complaints against taxis; and
- (iv) Step up follow-up actions with the taxi owner upon receiving repeated complaints against a particular taxi or driver, such as requiring the owner to explain or report his/its rectification measures.

**Office of The Ombudsman
October 2013**

Breakdown of nature of advisory letters

(March 2011 – March 2013)

	Nature of complaint/Suggestion	Number of Cases
1.	Conduct and performance of drivers	
	(i) Behaving other than in a civil & orderly manner	372
	(ii) Refusing hire	337
	(iii) Soliciting passengers	0
	(iv) Refusing to drive to destination	35
	(v) Failure to display taxi driver identity plate	16
	(vi) Failure to display taxi driver identity plate properly	4
2.	Improper driving behavior	347
3.	Overcharging	344
4.	Taximeter irregularities	58
5.	Failure to take the most direct route	289
6.	Others	76
7.	Multiple cases	424
	Total	2,302

Cases of taxi complaints referred from TCU to Police
(March 2011 – March 2013)

	Nature of complaint/Suggestion	Number of Cases
1.	Conduct and performance of drivers	
	(i) Behaving other than in a civil & orderly manner	406
	(ii) Refusing hire	1002
	(iii) Soliciting passengers	4
	(iv) Refusing to drive to destination	149
	(v) Failure to display taxi driver identity plate	59
	(vi) Failure to display taxi driver identity plate properly	54
2.	Improper driving behavior	538
3.	Overcharging	395
4.	Taximeter irregularities	133
5.	Failure to take the most direct route	470
6.	Others	269
	Total	3,479

2.1. 如何作出表揚及投訴

乘客如欲表揚的士司機或不滿的士司機所提供的服務，應記下的士司機的名字、的士車輛登記號碼，以及事發的日期、時間和地點，然後循下列的途徑作出表揚或投訴：

a. 交通投訴組

熱線電話：2889 9999

傳真號碼：2577 1858

網址：<http://www.info.gov.hk/tcu>

電郵地址：info@tcu.gov.hk

郵寄地址：香港中環花園道美利大廈21樓

b. 警方

熱線電話：2527 7177

或可向任何警務人員或往警署尋求協助

c. 香港旅遊發展局

熱線電話：2508 1234

傳真號碼：2111 8380

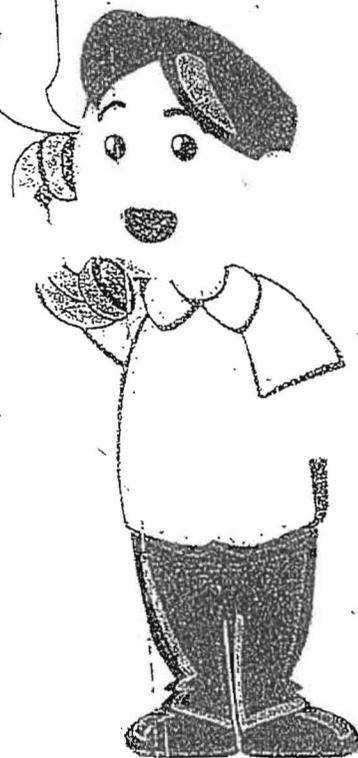
電郵地址：info@hktourismboard.com

郵寄地址：香港北角威非路道18號

高國貿通中心9-11樓

d. 香港旅遊發展局旅客諮詢及服務中心

- 香港國際機場入境大堂轉機區E2、緩衝區A及B
- 羅湖客運大樓2樓入境大堂
- 九龍尖沙咀天星碼頭
- 香港銅鑼灣地鐵站(近F出口)



2.1. How to lodge commendations and complaints

If a passenger wants to give commendation to a taxi driver or is not satisfied with the service provided, he/she should note down the driver's name, the registration number of the taxi, and the date, time and place of the incident. Commendations and complaints may be made to :

a. Transport Complaints Unit

Hotline : 2889 9999

Fax No. : 2577 1858

Website : <http://www.info.gov.hk/tcu>

E-mail : info@tcu.gov.hk

Mailing address : 21/F, Murray Building,
Garden Road, Central, Hong Kong

b. Police

Hotline : 2527 7177 or

Any police officer or police station for assistance

c. Hong Kong Tourism Board

Hotline : 2508 1234

Fax No. : 2111 8380

Email : info@hktourismboard.com

Mailing address : 9th-11th Floors, Citicorp Centre,
18 Whitfield Road, North Point, Hong Kong

d. Hong Kong Tourism Board Visitor Information & Services Centres

- Buffer Halls and Transfer Area E2 and Buffer Hall A & B at Hong Kong International Airport
- Arrival Hall, 2/F, Lo Wu Terminal Building
- Star Ferry Concourse, Tsim Sha Tsui, Kowloon
- Causeway Bay MTR Station (near Exit F), Hong Kong

Breakdown of complaints by mode of Transport (Year 2010 – 2012)

Mode of Transport	Year 2010	Year 2011	Year 2012
Taxis (% of Total No. of Complaints)	7,997 (54.8%)	8,789 (53.3%)	9,079 (45.3%)
Bus Services	3,275	3,963	6,482
Green Minibuses	2,656	3,051	3,555
Red Minibuses	307	317	299
Rail Transport	331	318	599
Ferries	40	54	47
Total	14,606	16,492	20,061

(Source : TCU Annual Report 2010 and 2011, TCU Quarterly Reports in 2012)