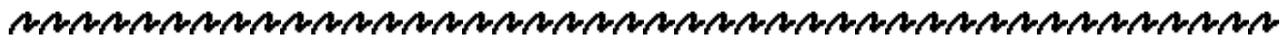


*Issue No. 5 of Reporting Year 2018/19  
(12 March 2019)  
Office of The Ombudsman*



***Direct Investigation Report  
Government's Follow-up Mechanism Regarding  
Psychological Health Assessment of School Children***

The Office of The Ombudsman has completed a direct investigation into the Government's follow-up mechanism regarding psychological health assessment of school children.

The Government spends around \$200 million each year on implementing the Student Health Service Programme ("the Programme"). One of its objectives is to identify students with psychological problems with a view to providing assistance.



However, our investigation has found the following three areas of inadequacies in the Government's implementation of the Programme:

- (1) Low student attendance rate (only 65% of enrolled students) at the annual assessment sessions, which means more than 200,000 enrolled students had missed their assessment sessions in each of the past seven school years. Yet the Department of Health ("DH") had neither looked into the reasons behind nor taken specific measures to boost the student attendance rate;
- (2) Failing to ensure that parents know their children's assessment results. Many students are not accompanied by parents during the assessment. Except for those cases where referral is considered necessary, the Student Health Service Centres would just ask those students to deliver the

assessment reports to their parents, even when the student requires attention; and

- (3) Insufficient follow-up action on case referrals. DH would not contact the students, their parents or the organisations referred so as to understand the current condition of the students referred.

In recent years, there has been a downward trend in the age of people with psychological problems. The Programme is the most wide-ranging student health service in Hong Kong. Its proper implementation could help in the early identification of students with psychological problems, and provision of appropriate assistance and follow-up action.

In the light of the above inadequacies, this Office considers that DH should explore improvement measures in a bid to promote early identification of and intervention in high-risk cases. It should also ensure that students in need of help would get proper attention and support, and to prevent them from falling through the gaps in the system.

The Ombudsman has made nine improvement recommendations to DH and the Education Bureau. The executive summary of the direct investigation report is at **Annex 1**.

***Direct Investigation Report***  
***Marine Department's Arrangements for Private Vessel Moorings***

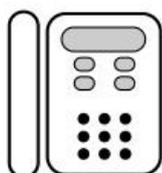
The Ombudsman has completed a direct investigation into the arrangements for private vessel moorings by the Marine Department ("MD"). MD has designated 43 areas for private vessel moorings within Hong Kong waters. Our investigation has identified the following inadequacies regarding the regulation of those moorings:

- (1) MD's inaction against subletting of private moorings ("PMs");
- (2) MD cannot regulate the subletting activities under the existing legal framework. However, what is legal is not necessarily reasonable, and precious public resources should not be abused;
- (3) The turnover rates of PM spaces in popular districts have been low, whereas the demand for PM spaces has been excessive, and the waiting time can be over a decade;
- (4) MD has not adjusted the administration fee for PMs for 24 years;
- (5) Over the years, yacht clubs have been allowed to lay large numbers of PMs for profits; and
- (6) MD has not set any specific targets for inspections. As a result, the number of spot checks conducted every year has fluctuated significantly.



Furthermore, we have found that MD's enforcement actions against illegal mooring buoys lacked deterrent effect. We have also made recommendations to MD for tackling the problems regarding management of typhoon shelters and local shipyards allegedly renting out berthing spaces against regulations.

The Ombudsman has made a total of ten improvement recommendations to MD. The executive summary of the direct investigation report is at **Annex 2**.



### *Enquiries*

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

**Office of The Ombudsman**  
**12 March 2019**

## **Executive Summary Direct Investigation Report**

### **Government's Follow-up Mechanism Regarding Psychological Health Assessment of School Children**

#### **Foreword**

To safeguard the physical and psychological health of school children, the Department of Health (“DH”) launched the Student Health Service Programme (“the Programme”), under which students are given an annual health assessment at a Student Health Service Centre (“SHSC”), including psychological health assessment, that match their different stages of development.

#### **Our Findings**

2. The Programme covers all primary and secondary students in Hong Kong and is currently the most comprehensive and wide-ranging student health service. Over the past few years, an average of more than 600,000 students enrolled to join the Programme annually. However, our direct investigation has found inadequacies in the implementation of the Programme in the following three areas.

#### ***(I) Failing to Adopt Specific Measures to Boost Low Student Attendance Rate***

##### **(1) Failing to Examine the Reasons for Absence from the Annual Assessment Sessions**

3. The Government spends around \$200 million each year on the Programme. In the past few years, only around 65% of the enrolled students attended their annual assessment sessions. The attendance rate of secondary students was even as low as 50%. Nevertheless, DH has never looked into the reasons behind their absence. Such low attendance rate would not only undermine the Programme’s effectiveness, but also cast doubt on whether the resources have been properly utilised.

4. Upon our intervention, DH started in December 2018 a random sample questionnaire among those absent students with a view to understanding why students

in different grades had missed the sessions. In our view, DH should consider adding a function in its online services for students/parents to voice their opinions about the Programme. DH should also consider specific measures to boost the student attendance rate.

(2) Failing to Provide Schools and Education Bureau with Information on Student Attendance Rate

5. At present, DH would not notify the schools/ Education Bureau (“EDB”) about students’ attendance of the annual assessment. We recommend DH to release to each school such information as the attendance rates by students’ grades, and release to EDB the overall attendance rate of each school. If any school is found to have a persistently low attendance rate, EDB should work with the school concerned to take improvement measures.

(3) To Enhance the Appeal of the Programme

6. DH may consider providing among its online services more basic health information and medical records of students (such as vaccination records and various health indicators) for easy reference by parents, making the Programme become the students’ personal growth and physical development/health records, thereby increasing the appeal of the Programme and boosting its attendance rate.

***(II) Failing to Ensure that Parents Know their Children’s Assessment Results***

(A) Failing to Effectively Notify Parents Who Have Not Attended their Children’s Annual Assessment of the Assessment Results

7. Our investigation found that many students were not accompanied by their parents when attending assessment sessions. Even for students as young as Primary Two, the highest attendance rate of parents was only 80%. For cases requiring follow-up actions, SHSCs would contact the parents. For others including cases where the student’s psychological health required attention but referral was not necessary, SHSCs would only ask the students to deliver the assessment report to their parents. Nevertheless, we are concerned about whether those students, especially younger ones, are capable of understanding and accurately conveying to their parents the explanation and recommendations of the medical staff.

8. In our view, DH should consider more reliable ways to notify parents of their children's assessment results. DH is now studying the feasibility of allowing parents to access their children's assessment results online. We suggest that DH should also add an online function for parents to fill in the questionnaire on their children's psychological health assessment in advance. That will assist SHSCs in making assessments even if the parents cannot attend the assessment sessions.

(B) Psychological Health Assessment Reports Fail to Reflect Details of Students' Assessment Results

9. We notice that the report on "Personal Health Assessment Results and Recommendations" prepared by SHSCs includes only some general advice on health, such as "develop good hobbies" and "stay relaxed and cheerful". It does not contain any details about any particular issues or areas of concerns. DH should review the contents of the report and set out the areas of concern in a clearer manner so that parents can follow up accordingly.

***(III) Insufficient Follow-up Action on Case Referrals***

(1) Undesirable Practice of "Reviewing Case Referrals by Next Annual Assessment"

10. Currently, when an SHSC considers that a student has a psychological problem and follow-up action is needed, it will refer the case to different specialist units/organisations based on the nature of the problem. Once a case is referred, the SHSC will suspend its follow-up action until the student's next annual assessment. Nevertheless, DH's data show that many of the students referred did not attend the next annual assessment. In fact, about 50% of the Form Four students did not show up for their next annual assessment after the referral. In such circumstances, SHSCs simply would not know how those students are doing, let alone providing appropriate support to them.

11. The saving grace is that after our intervention, DH agreed to strengthen its support to students after referral. DH and the Hospital Authority ("HA") are launching a pilot scheme at four SHSCs<sup>1</sup>. Around three months after a case is referred, the SHSC concerned will telephone the parents to check the student's latest condition and the arrangement for appointment with a psychiatrist. In addition, we

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<sup>1</sup> The four SHSCs are Chai Wan, Western, Lam Tin and Tuen Mun SHSCs.

consider that SHSCs should actively follow up and offer assistance if the students referred do not show up for their next annual assessment.

## (2) Inadequate Communication with Organisations Referred

12. At present, only a small number of organisations receiving case referrals from SHSCs would keep the SHSCs concerned updated on the condition of the students referred. We opine that DH should consider setting up a reminder system to actively remind the organisations referred to provide such information as appropriate. If a student has not contacted the organisation referred at all, the SHSC concerned should contact the student or his/her parents to see what the problem is and seek assistance from the school where necessary.

### *Better Compilation and Utilisation of Statistics*

13. The Programme, being the student health service with the widest coverage in Hong Kong, should have the most comprehensive and up-to-date information and data on students' psychological health condition as well as details on the follow-up actions. DH should make good use of such a rich database to assist the Government in formulating appropriate policies and deploying resources.

### **Conclusion**

14. Psychological problems can be easily overlooked by the patients, especially when the patients are immature young students who may not understand their own condition. They may also shun treatment out of worry of discrimination by peers once being labelled "patients with mental illness/mood disorder". DH, therefore, should take a more proactive approach in following up on those cases. Given the increasing trend in the number of children and adolescents developing mental illness in recent years, and the heightened concern about the problem in the society, more efforts should be made to enable prompt identification of high-risk cases and early intervention.

15. Certainly, the prime responsibility to take care of students with psychological problem rests with the parents. We would not ask DH to take up the role of parents or decide the course of action on their behalf. We just hope that DH can ensure that those student would get proper attention and appropriate follow-up action, so that students in need of help would not fall through the gaps in the system.

## Recommendations

16. In the light of the above, The Ombudsman makes the following recommendations to DH and EDB:

- (1) **DH** to gather information on the reasons for students being absent from their annual assessment in a bid to formulate specific measures to boost the student attendance rate;
- (2) **DH** to provide schools and **EDB** with information on student attendance rates, while **EDB** should pay attention to those schools with a consistently lower attendance rate;
- (3) **DH** to provide more information about the health condition and medical records of students online so as to increase the appeal of the Programme;
- (4) **DH** to allow parents to fill in the questionnaire about their children's psychological health online;
- (5) **DH** to review the content of the "Personal Health Assessment Results and Recommendations" to set out more clearly the students' problems and concerns;
- (6) **DH** to monitor closely the effectiveness of the pilot scheme implemented jointly with HA for strengthening support for students referred, and extend the new measure to other SHSCs as soon as possible;
- (7) **DH** should contact the student/parents if the student, after being referred for follow-up action, is found to have missed the next annual assessment;
- (8) **DH** to set up a reminder system to regularly remind organisations referred to update the situation of the referred cases; and
- (9) **DH** to compile more useful statistics on students' psychological condition, with a view to assisting the Government in formulating relevant policies and deploying resources.

**Office of The Ombudsman**  
**March 2019**

## **Executive Summary Direct Investigation Report**

### **Marine Department's Arrangements for Private Vessel Moorings**

#### **Foreword**

Local vessels are allowed to anchor at any safe and suitable positions within Hong Kong waters<sup>1</sup> according to their daily operational needs. There is no need to seek approval or designation of space from the Marine Department (“MD”). The Government will also ensure sufficient typhoon shelter spaces within Hong Kong waters for local vessels to berth during inclement weather. Meanwhile, MD has designated 43 areas for private vessel moorings (“PM areas”) within Hong Kong waters. Vessel owners may apply for written permissions from MD for laying private moorings (“PMs”) in those areas as fixed spaces (“PM spaces”) for mooring their private vessels.

#### **Our Findings**

2. In recent years, with the steady increase in the number of pleasure vessels in Hong Kong, the demand for PM spaces is on the rise. This direct investigation has found inadequacies on the part of MD in regulating the subletting activities of PMs, and in its arrangements for allocation of PM spaces. As the demand for PM spaces exceeds the supply, it has indirectly engendered other problems such as illegal mooring buoys, occupation of typhoon shelters and the berth renting business of shipyards.

##### ***(I) Problems in Regulation of PM Subletting***

###### **(1) Lack of Enforcement Action Resulting in 40% of Unauthorised PMs**

3. Before December 2017, the written permissions issued by MD contained a standard clause stipulating that the PM space was for the exclusive use of a “designated vessel”.<sup>2</sup> In other words, it would be a breach of permit condition if the PM was sublet/lent for use by another vessel, and MD might revoke the written permission or even prosecute the PM owner. However, MD’s investigation in 2013 found that more

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<sup>1</sup> Except where it is prohibited for the purpose of anchorage.

<sup>2</sup> Except for the written permissions issued to yacht clubs.

than 40% of PMs<sup>3</sup> were not used for mooring the PM owners’ vessels. It reflects that subletting/lending is quite common. Information shows that the market rent of a PM can be as high as several thousand dollars, or even over \$10,000 per month, which is many times higher than the administration fee charged by MD.<sup>4</sup>

4. Our investigation has revealed that between 2008 and 2013, MD had taken no enforcement action against subletting cases. MD has turned a blind eye to unauthorised subletting for years, rendering the relevant clause practically useless.

**(2) Inability to Regulate Subletting Activities under Existing Legal Framework**

5. In 2013, after seeking legal advice, MD held that its former condition of “designated vessel” is ultra vires. Consequently, MD removed the relevant condition in December 2017. During our investigation, MD indicated that since PM subletting was permitted under existing legislation, there was actually no problem in it. MD also considered such activities were similar to other legitimate economic activities (such as transporting ice for fishing vessels) carried out in Hong Kong waters. Moreover, as PMs are private property, “subletting of PMs does not involve profiteering from public resources”.

6. We certainly do not accept such views. While PMs are private property, the locations in the waters available for laying PMs are limited public resources. If MD allows subletting of PMs, the owners can still rent out the PMs for profits even when they do not need to use them, and our precious public resources will continue to be occupied by people with vested interests but no actual needs. As a result, the owners can run a lucrative business at zero risk while those on the waiting list of PM spaces can only keep waiting. Moreover, anyone can “jump the queue” and gain priority in using the PM spaces so long as he/she is willing to pay a high rent, thus disrupting the original “first-come, first-served” system.

<sup>3</sup> Excluding the moorings laid by yacht clubs.

<sup>4</sup> MD charges the fee for each PM on a monthly basis, and the details are as follows:

<b>Location of PM spaces</b>	<b>In Causeway Bay, Aberdeen West and Aberdeen South Typhoon Shelters</b>	<b>In all other Typhoon Shelters and elsewhere within the limits of Victoria Port</b>	<b>Elsewhere in Hong Kong waters</b>
<b>Vessel length</b>			
<b>5 metres and under</b>	\$270	\$140	\$73
<b>8 metres and under</b>	\$475	\$270	\$140
<b>11 metres and under</b>	\$670	\$405	\$210
<b>Over 11 metres</b>	\$670 plus \$210 for every 3 metres exceeding 11 metres	\$405 plus \$140 for every 3 metres exceeding 11 metres	\$210 plus \$140 for every 3 metres exceeding 11 metres

7. In our view, what is “legal” is not necessarily “reasonable”. If subletting of PMs is not illegal under the existing legal framework, MD should review and consider amending the relevant legislation.

## ***(II) Arrangements for Allocation of PM Spaces and Waiting List***

### **(1) Low Turnover Rates with Cases Waiting for over 10 Years**

8. Demand for PM spaces in some popular districts has exceeded supply. As at 30 June 2018, 41 of the 43 PM areas<sup>5</sup> had been fully occupied, and there were more than 500 outstanding cases on the waiting list. In eight PM areas, the applicants at the top of the waiting lists had been waiting for more than a decade, with the longest waiting time being 14 years.

9. For written permissions issued before February 2018, there was no validity period specified, meaning that the applicants could use the PM spaces for as long as they want. Moreover, as MD no longer prohibits the renting/lending of PMs, there would be even less incentive for owners to surrender their PM spaces, thereby significantly diminishing the chance of natural turnover of those spaces. Information from MD shows that written permissions for PMs in various districts had been issued for an average of 20 to 35 years.

10. We consider that MD should examine its arrangement in allocating PM spaces and consult the stakeholders with a view to increasing their turnover. For example, a validity period should be specified in all the written permissions, and upon expiry of the permissions the PM spaces concerned will be reallocated. MD should also explore other methods in allocating PM spaces (such as balloting and tender).

### **(2) Administration Fee Not Adjusted for 24 Years**

11. MD has not adjusted the administration fee for PMs since 1995<sup>6</sup>. MD emphasises that the fee is reviewed annually according to the Government’s established mechanism, and that the principle of cost recovery is in line with the relevant legislation. Nevertheless, the existing administration fee is far below the market rates of PMs, making subletting of PMs a profitable business. In our view, if MD cannot increase

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<sup>5</sup> The newly built Hei Ling Chau PM Area is not included.

<sup>6</sup> During the period between 1998 and 2004, the Government had frozen the fee.

the administration fee under the existing legal framework, it should explore other possible charging mechanisms and modes.

(3) Yacht Clubs Allowed to Lay Large Number of PMs for Profits

12. We are particularly concerned about the situation that four yacht clubs (together they hold more than 800 PM spaces) have been allowed to lay and rent out large numbers of PMs for profits. MD is in effect subsidising those yacht clubs with precious public resources. We consider it necessary for MD to review whether the existing arrangements are appropriate. For example, it should consider whether periodic open tenders are necessary.

(4) Unclear Targets for Inspections

13. MD has not set any targets for its inspections of PMs. As a result, the number of spot checks conducted every year fluctuated significantly. Between 2014 and 2016, MD inspected only 121 to 449 PMs each year. Given that there are nearly 2,000 PMs throughout the territory, the number of inspections was hardly adequate.

***(III) Enforcement against Illegal Mooring Buoys Lacked Deterrent Effects***

14. Our investigation found that MD's enforcement against illegal mooring buoys lacked deterrent effects. Offenders could get away without any consequences so long as they temporarily removed the buoys<sup>7</sup> in question before the date specified on the Removal Notice. Moreover, because of difficulties in gathering evidence, MD had never instituted any prosecutions in the past.

15. This Office considers that MD should review its enforcement strategies and consider shortening the notice period and exploring other methods (e.g. deploying decoys) to track down the owners of illegal buoys. It should also examine the viability of detaining the vessels moored to illegal buoys or prosecuting the vessel owners.

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<sup>7</sup> Take Pak Sha Wan in Sai Kung as an example, MD discovered 455 illegal mooring buoys in five years. Nearly 70% of those buoys were removed by their owners after the Department had posted a Removal Notice.

#### ***(IV) Pontoons “Occupying Berthing Spaces” at Typhoon Shelters for Profits***

16. There had been media reports that pontoons were being used to occupy berthing spaces at Kwun Tong Typhoon Shelter for providing berthing services to yachts for a fee. Our field observations also discovered a number of yachts berthing at landing pontoons or flat top work barges. MD asserted that it was not illegal for pontoons to provide water, electricity and berthing services to yachts for a fee. It had not received any complaints about threats or blackmail. Since November 2018, however, the Police had joined hands with MD in strengthening patrols and conducted joint operations at Kwun Tong Typhoon Shelter to prevent illegal behaviour in the Shelter.

17. Our concern is whether the right of other vessels to the fair use of typhoon shelters had been affected. We recommend that MD closely monitor the situation and join forces with the Police to combat illegal practices that affect the use of typhoon shelters by vessels.

#### ***(V) Shipyards Profiteered by Renting out Berthing Spaces against Regulations***

18. The sites of local shipyards are leased out by the Lands Department (Lands D) in the form of short term tenancies. There were media reports that several shipyards allegedly violated the land use conditions by renting out slipways for yachts to berth. While enforcement of short term tenancies is Lands D’s responsibility, we are concerned that if shipyards often rent out their slipways, maintenance and support services for local vessels would suffer in the long run.

### **Recommendations**

19. In the light of the above, The Ombudsman makes ten improvement recommendations to MD:

- (1) to review and consider amending the relevant legislation so that MD can re-enforce the requirement that restricts the use of PMs to only “designated vessels”;
- (2) to review the waiting situation and examine ways to expedite the turnover of PM spaces (e.g. specifying a validity period in permissions);

- (3) to review the allocation arrangement for PM spaces and explore whether other methods (such as balloting) should be used to allocate PM spaces;
- (4) to review the charging mechanism for laying PMs;
- (5) to review the situation in which yacht clubs hold for a long time a huge number of PM spaces for profits, and consider the need for periodic public tenders;
- (6) to review the current arrangement for conducting spot checks of PMs and consider setting inspection targets;
- (7) to review the current enforcement strategies against illegal mooring buoys and consider shortening the notice period;
- (8) to take active measures to track down owners of illegal mooring buoys (such as by deploying decoys), and examine the viability of detaining vessels berthed at illegal buoys or prosecuting the vessel owners;
- (9) to closely monitor whether the fair chance of using typhoon shelters would be affected by those fee-charging pontoons for berthing; and join forces with the Police to combat illegal activities to drive away other vessels; and
- (10) to discuss further with Lands D long-term measures to monitor shipyards and prevent them from renting out berthing spaces.

**Office of The Ombudsman**  
**March 2019**