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Direct Investigation into Conveyance of Patients by Ambulance to "Area Hospitals"

The Ombudsman has completed a direct investigation into existing practice of ambulances conveying patients to the accident and emergency departments of "area hospitals".

Our investigation reveals examples on Hong Kong Island, in Kowloon and the New Territories where the "area hospital", i.e. the designated hospital in the patients "catchment area", might not be the nearest hospital. In one particular case, the travel time to the "area hospital" was ten minutes longer than to the nearest hospital.

In devising the current conveyance arrangement, the Fire Services Department ("FSD") and the Hospital Authority ("HA") have attached more weight to the scale, equipment and intake capacity of the hospitals. However, as pointed out by medical experts and a local medical association, **patients in critical condition** should be taken to the nearest hospital for treatment as soon as possible or there can be serious consequences.

The Ombudsman recommends that special arrangements should be made to identify **patients in critical condition** and take them to the nearest hospital in terms of travel time.

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

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Summary of Investigation Report
Complaint against Social Welfare Department
for Unreasonableness in its Assessment of the Income
of CSSA Recipients

The Ombudsman has completed an investigation into a complaint against the Social Welfare Department ("SWD") for unreasonableness in its assessment of the income of Comprehensive Social Security Assistance ("CSSA") recipients.

Our investigation found that SWD has two rules regarding the income and asset tests under the CSSA Scheme as follows:

(1) For elderly and disabled CSSA recipients, the value of an owner-occupied residential property will be totally disregarded in the asset test.

(2) Any financial support from relatives and friends received by CSSA recipients for purchasing properties or other assets will, however, be regarded as their income. Their CSSA entitlement in the ensuing month will thus be adjusted, taking into account any amounts so received.

We consider the above two rules to be essentially contradictory. Rigid enforcement of the rules by SWD may cause substantial hardship to CSSA recipients, and possibly even an absurd scenario of them "being wealthy enough to own their homes, but having no money to feed themselves". The Ombudsman, therefore, urges SWD to review the above issue.

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

Summary of Investigation Report
Complaint against Three Government Departments
for Failing to Properly Handle Unlawful Occupation
of Government Land

The Ombudsman has completed an investigation into a complaint against the Transport Department, Lands Department and Home Affairs Department for failing to properly handle unlawful occupation of Government land for different purposes such as illegal parking, hawking, making flower beds, erecting drying racks and installing metal posts.

Our investigation revealed that the Administration had allowed such unlawful occupation to persist for more than 30 years. Improvement works were even carried out in 2011 at the vehicle access point of the Site, which in effect encouraged illegal parking and put Government in an embarrassing situation. In this case, the departments concerned merely focused on their own jurisdiction without trying to find an overall solution to the problem.

We considered that the departments concerned should actively liaise and discuss with each other to determine the short and long-term usages of the site as well as to work out a solution to curb the problem of unlawful occupation.

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

Enquiries

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Office of The Ombudsman, Hong Kong
10 January 2013

Annex 1

Executive Summary

Direct Investigation
Conveyance of Patients by Ambulance to "Area Hospitals"

Background

Ambulance service for conveying patients to the accident and emergency departments of hospitals is the responsibility of the Fire Services Department ("FSD").

2. FSD and the Hospital Authority ("HA") have agreed to divide the territory into 20 areas (hereinafter called "catchment areas"). FSD ambulances must take patients to the designated hospitals or clinics within the hospital catchment areas (hereinafter called "area hospitals") where they are in.

3. Nevertheless, an area hospital may not necessarily be the hospital nearest to the location of a patient. There are concerns that the current fixed rule for ambulancemen to take patients even "in critical condition" (e.g. cardiac arrest or serious respiratory distress) to area hospitals may lead to serious consequences because of delay caused by longer travel time.

4. This direct investigation aims at examining the current arrangements for conveying patients in critical condition to an area hospital, with a view to identifying any inadequacies and room for improvement.

Our Findings

Rationale for Conveyance to Area Hospital

5. According to FSD and HA, the current arrangements of conveying patients to the area hospital are made with the "best interests" of patients in mind. The best interests of patients mean that patients can receive "total patient care", which includes proper pre-hospital first aid and conveyance to the nearest appropriate hospital for treatment within the shortest possible time. In devising the current demarcation of catchment areas and the procedure of taking patients to area hospitals, the scale, equipment and intake capacity of the hospitals are the main factors for consideration. Travel distance and travel time, or the local traffic condition are neither the only nor the most important factors for consideration in devising the current plan.

6. Accordingly, whether in critical condition or not, patients will be taken by ambulance to the area hospital, except in special circumstances such as:

Large-scale accidents	- Divert to different hospitals
Severe trauma	- Convey to hospitals with appropriate equipment and capacity
Traffic diversion or road congestion	- Convey to other hospitals

Examples of "Area Hospital Not Being Nearest Hospital"

7. We have studied the 22 complaint cases received by FSD over the past three years as well as the Department's documentary exchanges with HA. We found examples, on Hong Kong Island, in Kowloon as well as in the New Territories, which show that the area hospital may not be the nearest hospital (for details, see **Chapter 3** of Investigation Report). In one case, the travel time to the area hospital was 10 minutes longer than to the nearest hospital. FSD had proposed to adjust the boundaries of catchment areas. However, the Department eventually agreed with HA to maintain the existing demarcation on grounds of medical resources and hospital service capacities, etc.

Expert Opinions

8. We have sought the views of our medical advisers, a local medical association, local medical practitioners and a local patients' organisation. They held that patients in critical condition (including those having severe heart attack and severe allergic reaction) should be taken to the nearest hospitals for treatment as soon as possible to prevent fatal results.

Responses from FSD and HA

9. **HA** indicated that for patients having cardiac arrest, the most important thing to do is to apply cardiopulmonary resuscitation within the first 5 minutes of the arrest. It is in principle feasible to take such patients to the nearest hospital rather than the area hospital. Nevertheless, HA maintained that on the whole, the current system ensures that patients receive total patient care, which is in their best interests.

10. **FSD** argued that if ambulancemen were allowed to make their own judgement on whether a patient is in critical condition, it might leave members of the public confused and give rise to complaints, as assessment by different ambulancemen might vary. The quality of emergency call service might also be adversely affected. Furthermore, given the current level of medical skills of frontline ambulancemen and ambulance equipment, FSD could not be sure that patients in critical condition could be quickly and accurately identified in varying work situations.

Our Comments

Inadequate Attention to Patients in Critical Condition under the Current System

11. Under the current system, the scale, equipment and intake capacity of hospitals form the basis for the demarcation of catchment areas. Ambulancemen are merely required to follow some simple pre-set instructions in carrying out their duties. They do not need to make a lot of judgement on a patient's condition.

12. However, the system may result in several minutes' delay in conveyance of patients. While such delay may not make much difference to most patients, its impact on **patients in critical condition** could be very significant.

13. We are aware that no adjustment of the boundaries of catchment areas could possibly make all "area hospitals" the nearest ones for any location in each catchment area. Nevertheless, we consider it possible to keep the current system basically unchanged but make special arrangements to identify **patients in critical condition** and take them to the nearest hospital in terms of travel time so as to meet their most urgent need to receive medical treatment.

Arguments that Special Arrangements would Affect Service Standards and that Ambulancemen are not Capable of Identifying Patients in Critical Condition can Hardly be Justified

14. FSD argued that any special arrangements might affect the service standards and that ambulancemen are not capable of accurately identifying patients in critical condition. We believe that there should be a solution to the problem. With adequate training and clear guidelines, frontline ambulancemen should be able to identify patients in critical condition and there should not be too much deviation in their assessment.

15. Even when ambulancemen are not totally certain whether a patient is in critical condition, they could simply adopt the "minimal risk approach" and take the patient to the nearest hospital. Surely, that would do more good than harm.

16. HA statistics show that, of the patients taken to the accident and emergency departments of hospitals by ambulance in the past three years, only about 4% were identified at the hospital to be in "critical condition". We believe that even if all patients in critical condition were taken to the nearest hospitals, that would not have a major impact on the workloads and intake capacities of any particular hospitals.

Our Recommendations

17. The Ombudsman urges FSD and HA to:

(1) provide special arrangements under the current system: where the area hospital is not the nearest one, patients in critical condition should be taken to the nearest hospital;

(2) provide proper training and draw up clear guidelines for frontline ambulancemen, including a definition of patients in critical condition, to facilitate implementation of the measure in (1) above; and

(3) set up a regular review mechanism and maintain contact with various stakeholders (including frontline ambulancemen), so as to gradually introduce the measures in (1) and (2) above.

18. FSD and HA have generally accepted the above recommendations. They agree to start with the cases of "cardiac arrest" and "respiratory arrest" which are more identifiable. There will initially be a special arrangement for such patients to be taken to the nearest hospital. FSD agrees that as frontline ambulancemen acquire more experience and/or are given the necessary diagnostic equipment, the Department would extend the special arrangement to include more types of critical condition and allow such patients to be taken to the nearest hospital as well.

Concluding Remarks

19. We appreciate the difficulties faced by frontline ambulancemen and that it takes time for the management to change the long-established work methods and practices. As can be seen from their responses in the paragraph above, FSD and HA have at least taken a step forward regarding the conveyance of patients in critical condition. Nevertheless, patients in critical condition are not limited to those having "cardiac arrest" or "respiratory arrest". The Ombudsman urges FSD and HA to conduct regular reviews and strive to provide frontline ambulancemen with the necessary equipment, training and guidelines so that ultimately all patients in critical condition will be taken to the nearest hospital for emergency treatment as far as practicable.

Office of The Ombudsman
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Annex 2

Summary of Investigation Report

Complaint against Social Welfare Department for Unreasonableness in its Assessment of the Income of CSSA Recipients

Details of Complaint

The complainant's parents lived in a public housing unit and were recipients of Comprehensive Social Security Assistance ("CSSA"). In June 2011, the complainant purchased the public housing unit for her parents and let them continue living there as owners. Subsequently, the Social Welfare Department ("SWD") notified the complainant's parents that the purchase amount should be treated as their income. They thus became ineligible for CSSA in July 2011 and were required to return that month's CSSA allowance to SWD.

2. The complainant considered SWD's decision unreasonable. She argued that according to the information provided on the Department's website, the value of an owner-occupied residential property will be totally disregarded for the asset test under CSSA Scheme if there is an aged or disabled member in the household. Since her father was 65 and her mother was receiving disability allowance, both of them were eligible for that waiver. Besides, she had made several telephone calls to SWD to seek clarification before purchasing the property. An SWD officer confirmed to her that her parents' eligibility for CSSA would not be affected even if they became owners of their public housing unit.

Response from SWD

Income and Asset Tests under CSSA Scheme

3. According to SWD's guidelines on CSSA Scheme, all applicants for CSSA must pass both its income and asset tests. The rules concerning CSSA recipients with self-owned residential properties include the following:

(1) **For the asset test**, the value of an owner-occupied residential property will be totally disregarded if any member in the household is old, disabled or medically certified to be in ill health.

(2) **For the income test**, any financial contributions (including financial support from relatives or friends) received by CSSA recipients for purchasing properties or other assets will be calculated as their "assessable income". The CSSA entitlement in the ensuing month will thus be adjusted, taking into account any amounts so received.

4. SWD stressed that the above two rules are based on different grounds and principles. Regarding the asset test ("Rule (1)"), the waiver is based on compassionate grounds to allow elderly or disabled CSSA recipients to continue living

in their original homes and familiar districts so that they can enjoy the established neighbourhood relationships. Regarding the income test ("Rule (2)"), CSSA is intended as the last safety net for people facing economic hardship. CSSA recipients should first use their own economic resources, including financial support from relatives and friends, to cope with their basic necessities; and acquisition of property is not a basic necessity.

The Case of the Complainant's Parents

5. In July 2011, SWD learned from the Housing Department that the complainant's parents had become owners of their unit in June. Under Rule (2), the amount paid for purchasing the unit should be treated as their income. They thus had to return the CSSA allowance paid to them in July. Nevertheless, under Rule (1), the value of their unit was totally disregarded for the asset test. From August 2011 onwards, they would continue to be entitled to the full amount of monthly CSSA allowance.

Our Comments

6. We have checked the SWD website and confirmed that the rules on the income and asset tests are set out in the Department's guidelines. As to what the SWD officer had told the complainant in response to her enquiries, we are unable to ascertain details of their conversations in the absence of telephone recording.

7. Purely from the perspective of administrative procedures, SWD should not be regarded as at fault for enforcing the established Rule (2) to recover an overpaid CSSA allowance from the complainant's parents.

8. However, we consider Rules (1) and (2) to be essentially contradictory. Rule (1) is based on the principle of compassion to allow elderly and disabled CSSA recipients to live comfortably in their own properties. The measure is commendable. However, when an elderly or disabled CSSA recipient is given a place of residence by his/her relative or friend, there is actually no increase in his/her **disposable** income. If SWD rigidly enforces Rule (2) and requires him/her to return one month's CSSA allowance, what was originally meant to be a caring and compassionate measure might paradoxically cause substantial hardship to him/her for one whole month, and possibly even an absurd scenario of him/her "being wealthy enough to own his/her home, but having no money to feed himself/herself".

9. The Ombudsman, therefore, urges SWD to review the above issue.

Office of The Ombudsman
January 2013

Annex 3

Summary of Investigation Report

Complaint against Transport Department, Lands Department and Home Affairs Department about Unlawful Occupation of Government Land

The Complaint

The area at the entrance of Village A was a piece of unleased Government land ("the Site"). For many years, the Site had been unlawfully occupied for different purposes such as car parking, hawking, making flower beds, erecting drying racks and installing metal posts. The complainant noticed that the Transport Department ("TD") had carried out improvement works on the Site, which would in effect encourage illegal parking. Moreover, the Lands Department ("Lands D"), which was responsible for the control and management of the Site, had failed to properly handle the issue; while the Home Affairs Department ("HAD") had done nothing to follow up the issue at district level.

Our Findings

The Site

2. The Site was managed by Lands D and had no immediate designated use. Unfenced and accessible to the public, the Site had several access points for pedestrians, while vehicles at the Site could take the concrete ramp at one of the access points and enter the carriageway across a footpath. There was no record about when and by whom this vehicle access point was built. Since the 1980s, illegal parking activities had appeared on the Site.

Background

3. The Site was designated as Local Open Space on the layout plan for the area. Between 1991 and 1993, the then Regional Council had consulted HAD (then known as the City and New Territories Administration) and Lands D on the timetable for conversion of the Site into recreation and open space ("the conversion works"). According to the opinions collected from Village A by HAD and Lands D, the villagers strongly opposed to the conversion works on the ground of inadequate parking spaces. After negotiation, the villagers accepted the conversion project but urged the Government to provide parking spaces on the Site for their use.

4. In late 1993, HAD was aware that the village expansion scheme near Village A would be implemented and dozens of additional parking spaces would then be available. Therefore, HAD suggested that the conversion works be commenced after implementation of the expansion scheme. HAD advised that the villagers' opinions

(i.e. the conversion works should include provision of parking spaces for them) should be taken into account if Government considered it necessary to carry out the conversion works before completion of the village expansion scheme.

5. Subsequently, Government decided to conduct a comprehensive review of the New Territories Small House Policy. As village expansion schemes formed an integral part of such policy and the policy review was still underway without any timeframe for completion, the village expansion schemes for all districts were suspended and the conversion project of the Site was thus shelved. The Site was put on the list of sites subject to land control actions[1] by Lands D and there were no other interim uses. Unlawful occupation of the Site continued.

6. In 2010, TD, Lands D and HAD received complaints about the Site being unlawfully occupied for different purposes.

Response from Lands D

7. Illegal parking and hawking were problems of a transient nature. If Lands D relied on the Land (Miscellaneous Provisions) Ordinance ("the Ordinance") for taking enforcement action, it should give the occupant a statutory notice of not less than 24 hours. The local District Lands Office could take enforcement action only if the vehicles or hawker stalls remained on the Site after the expiry of notice. Therefore, Lands D did not find it effective to handle such cases under the Ordinance and it would refer cases involving illegal parking and itinerant hawking to the Police and the Food and Environmental Hygiene Department ("FEHD") respectively. Meanwhile, given the public safety concern and the historical background of the Site, Lands D also consulted HAD and TD on the problem of illegal parking. After considering the views from the two departments, Lands D decided to maintain the *status quo*.

8. For activities like installing metal posts, the local District Lands Office had initially given "intermediate priority" to taking enforcement action. Later, Lands D received complaints from the public and the media as well as referrals from this Office. In view of the public concern, Lands D escalated the action to "high priority" in early 2012 and put up notices there to order the occupants to remove the metal posts by a deadline[2].

Response from TD

9. TD was aware of the perennial problem of illegal parking on the Site but considered its main focus to be the safety of road users and that the issues of illegal parking and road safety should be handled separately.

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[1] The actions were targeted at the placing of drying racks, making of flower beds, building of low walls and metal posts on the Site.

[2] During our recent site inspection, there were still mental posts on the Site.

10. In view of the safety concern raised by the public, TD conducted a review about the vehicle access point in mid-2010 and concluded that its design was similar to other ordinary vehicle access points on footway. As long as the pedestrians and drivers paid attention to the traffic condition, there should not be any safety hazards. However, TD found that the design of the ramp was undesirable, which might pose safety hazards to people with mobility impairments (including wheelchair users). As such, TD proposed to implement some improvement measures including levelling of the potholes and uneven road surface while retaining the vehicle access point. In July 2011, TD requested HAD to conduct a public consultation regarding the improvement works. Both the local rural committee chairman and Village A's representative opposed to the works. After liaison and discussions with various parties concerned, TD decided to add anti-skid road surfacing to improve the access point and the project was completed in April 2012.

11. On the potential hazards posed by the undesirable design of the ramp to people with mobility impairments, TD proposed to implement improvement works at another access to the Site. At a District Council meeting in early May 2012, TD reported on the proposed works. No objection was raised at the meeting and the project was completed in the same month.

12. As for the problem of illegal parking, TD considered there to be already adequate parking spaces in the vicinity of the Site. From the perspective of traffic management, there was no need to designate the Site as a fee-charging car park.

Response from HAD

13. Apart from assisting in the liaison between villagers and the departments concerned to enable discussion on the problem of illegal parking on the Site, HAD also gave its advice to those departments. In reply to Lands D's enquiry in June 2010, HAD said that residents nearby would strongly oppose to prohibition of car parking on the Site. Therefore, if TD did not find vehicles entering or leaving the Site to pose any potential hazards to pedestrians, Lands D might consider maintaining the *status quo*. Nevertheless, to resolve the illegal parking problem, Lands D might consider providing additional parking spaces after checking the progress of the village expansion scheme.

14. Since illegal parking had been a perennial problem on the Site and public complaints had been received, HAD subsequently changed its position and advised the departments concerned to take immediate actions. Nevertheless, Lands D must analyse the situation and decide whether to maintain the *status quo* or take appropriate land control measures.

Our Observations and Comments

15. The Site was not located in a remote location. It was in fact less than 200 metres from the local District Lands Office, in between busy roads and village houses

and frequented by pedestrians. Unlawful occupation of the Site would easily give rise to concerns about nuisance, public order and road safety and thus attract complaints.

16. Government had allowed such problems to persist for more than 30 years. The departments concerned had neither taken any enforcement action nor regularised those illegal activities. Improvement works were even carried out at the vehicle access point, which was effectively an encouragement to illegal parking. It had put Government in an embarrassing situation. We considered the complainant's allegation justified and the departments concerned should be held responsible.

17. This complaint was another case to demonstrate that the attitude of some Government departments to focus more on how to evade their responsibility rather than finding solutions to problems.

Lands D

18. As the department responsible for managing the Site, Lands D had not attempted to prevent vehicles and hawkers from entering the Site. It only referred the case to the Police and FEHD for follow-up action. While there might be constraints for Lands D to take enforcement action under the Ordinance, Lands D should not have merely relied on other departments to clamp down on the illegal activities without paying attention to the effectiveness of the departments' follow-up actions. Even though such illegal activities could be handled by other departments, it did not mean that Lands D could stay away from the issue entirely. Rather, when the problems persisted for years after its referral to other departments, Lands D should have sought other solutions. It could not just turn a blind eye to the problems or treat them as other departments' problems.

19. Considering the serious nature of this complaint, Lands D's justification to delay giving higher priority to the case was weak. While it was not unreasonable for Lands D to decide maintaining the *status quo* after taking into account the historical background and strong objections from residents, it should not simply rely on one of the suggestions from HAD without thinking the whole matter through. On the illegal parking issue, although HAD did suggest Lands D maintaining the *status quo* if there was no road safety concern, it also advised that, to resolve the illegal parking problem, Lands D should consider providing additional parking spaces after checking the progress of the village expansion scheme. We found it hardly convincing that Lands D should adopt only the suggestion to maintain the *status quo* after consulting other departments. This would give an impression that Lands D was trying to favour those with vested interest by not taking enforcement and control actions, thereby undermining the public's faith in the law enforcement authorities.

20. If Lands D considered the current usage of the Site tolerable or appropriate, it should consider regularising it so that necessary control action could be taken and reasonable rent collected.

TD

21. We accepted that the primary concern of TD was the safety of road users. However, we did not agree that TD should handle the issues of illegal parking and road safety separately and ignore the fact that illegally parked vehicles were indeed crossing the footpath when entering or leaving the Site.

22. Even though the Site was not a public road and was outside the jurisdiction of TD, TD could still assist in resolving the illegal parking problem. For example, the Department could discuss with Lands D on the possibility of removing the informal vehicle access point or installing railings to prohibit vehicles from crossing the footpath and entering the Site.

23. As illegal parking on the Site had existed for decades, if TD only looked at the availability of parking spaces in the vicinity when assessing whether the Site should be designated as a fee-charging car park, that would neither help the Administration resolve the long-standing problem of unlawful occupation of the Site nor meet the actual demand for parking spaces in the locality. On the other hand, if TD believed that there were adequate parking spaces in the vicinity, it should then refute the suggestion of HAD and support the elimination of illegal parking. TD could also take into account the villagers' strong view about inadequate parking spaces and re-examine the justification and feasibility of providing additional parking spaces so that the problem could be properly resolved.

24. TD did not see the need to provide additional parking spaces on the Site, nor did it assess the vehicle access point as posing any safety concerns. While improving the vehicle access point to facilitate people with mobility impairments might seem reasonable, yet TD had already carried out such improvement works at another access point. So, the anti-skid works at the vehicle access point became self-contradictory and redundant and could be perceived as a measure to benefit the illegal parkers.

HAD

25. In June 2010, HAD assessed the issue of illegal parking and concluded that the villagers would strongly oppose the prohibition of parking on the Site. As a result, it suggested that Lands D should maintain the *status quo* if there was no road safety concern. This had given Lands D a convenient excuse not to take enforcement and control actions. While it was the duty of HAD to reflect villagers' views and expectations, we considered it also HAD's function to balance the views of different parties and find a sensible, reasonable and lawful solution. The then suggestion by HAD was in effect condoning the illegal activities. Nevertheless, HAD had changed its position and suggested Lands D should take immediate action.

Conclusion

26. The Site was originally designated as a Local Open Space. As early as 1993, the departments concerned already intended to implement the plan and the villagers of Village A agreed. The plan was subsequently suspended pending the results of Government's review on the policies on small houses and village expansion. After 20 years, the review was still not yet completed. It had become an excuse for Government to delay action against the illegal activities on the Site. If the departments concerned continued to evade their responsibility and condone the situation and allow the Site to be unlawfully occupied, the problem would only become more deep-rooted. As the Administration was unable to provide a timeframe for the completion of the review, the departments concerned should quickly plan for the temporary and long-term usages of the Site.

27. In view of the above, The Ombudsman considered:

the complaint against Lands D substantiated;

the complaint against TD partially substantiated; and

the complaint against HAD substantiated.

Recommendations

28. The Ombudsman recommended that:

Lands D

(1) actively liaise and discuss with HAD, TD, the Police and other departments concerned on a long-term solution to the unlawful occupation of the Site; and

(2) liaise and discuss with other departments concerned on ways to determine the temporary and long-term usages of the Site (such as the originally planned Local Open Space, leased Government land or parking spaces for villagers).

TD

(3) take a broader perspective in its future discussion with other departments regarding the long-term solution to the unlawful occupation of Government land and consider the opinions from various parties including the feasibility of regularisation of illegal parking.

HAD

(4) closely follow up the problem of unlawful occupation of the Site and liaise with the departments concerned, local organisations and villagers to seek temporary and permanent solutions for the problem.

29. The Ombudsman is pleased to note that the departments concerned have accepted our recommendations.

Office of The Ombudsman
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