

**The Director of Audit's Report No.66 Chapter 6
Monitoring of safe operation of lifts and escalators
Responses from the EMSD**

Part 2: Monitoring Work of Registered Persons

1. *According to para. 2.12(b), if a registered contractor has received three or more warning letters within a 12-month period, the EMSD may refer the case to the DEVB but would carry out a preliminary review of the case first (para. 2.16(a)). In this connection, would the EMSD inform this Committee:*
 - a) *In general, how long will it take for the EMSD to carry out the review after issuing warning letters to the concerned registered contractor;*
 - b) *If the registered contractor under warning has rectified relevant problems before the EMSD carries out a review, will the EMSD continue to proceed the review;*
 - c) *If the registered contractor under warning has not rectified relevant problems when the EMSD carries out a review, will the EMSD refer the case to the DEVB upon completion of the review; in general, when will the EMSD make the decision in referring the case to the DEVB;*

Answer: The following are the consolidated responses to items (a), (b) and (c):

As described in para. 2.12(a) of the Audit Report, the EMSD will issue a warning letter to a registered contractor (RC) if, during an EMSD site inspection, a safety-related non-compliance issue is found, or 12 PM points or more are accorded to the RC. The RC should improve its performance in accordance with the warning letter.

In order to strengthen the regulation of RCs' performance, the EMSD adopts administrative measures to timely carry out review of RCs which have received 3 or more warning letters within the past 12 months by assessing the severity of the non-compliances of the RCs and to refer serious cases (e.g. misconduct or neglect in professional respect) to the DEVB for arrangement of disciplinary board hearings. When conducting a review, the EMSD will determine whether to refer the case to the DEVB with due consideration on the accountability and the severity of the non-compliances of the RC in the cases mentioned in the warning letters. The EMSD

will not consider the progress or status of relevant improvement or rectification measures taken by the RC.

Regarding Audit Commission's recommendations about taking disciplinary actions against RCs, the Disciplinary Action Review Panel of the EMSD ("DAR Panel") will carry out review of the RCs which have received 3 or more warning letters within the past 12 months after assessment of the Contractors' Performance Rating in each quarter.

d) *According to para. 2.13, RC1 had received 3 warning letters within a 4-month period and RC7 had received 4 warning letters within a 3-month period. Were these RCs warned against the same issue? Please provide the items that they were warned against;*

f) *According to Table 1, RC1 had not been reviewed by the Disciplinary Action Review Panel of the EMSD as at 31 December 2015. What is the reason?*

Answer: The following are the consolidated responses to (d) and (f):

For RC1, there were two warning letters related to its failure in properly maintaining the brakes of two respective escalators in a building in Shu Kuk Street, North Point, and one warning letter was related to its failure in arranging sufficient manpower to carry out lift works in a building in Mong Kok. The EMSD has carried out prosecution actions against RC1 in 2013 in relation to the case in Shu Kuk Street, North Point. RC1 was subsequently convicted and fined, and details were stated in para. 2.11(a) of the Audit Report. Upon the completion of prosecution actions against RC1, the EMSD had consulted with the Department of Justice on the initiation of disciplinary actions against RC1. The Department of Justice advised the EMSD in August 2015 that it should consider the verdict of the Court against RC1 and make reference to previous disciplinary hearings in order to decide whether to initiate disciplinary actions against RC1. After due consideration of the Court's decision and previous disciplinary hearings, the DAR Panel decided not to initiate disciplinary actions against RC1 in the meeting held in February 2016.

For RC7, the warning letters issued by the EMSD were related to emergency alarm device, emergency lighting and car door operating issues of four lifts. The content of the warning letters did not involve any safety components or safety equipment. The DAR Panel has reviewed the case involving RC7 in February 2016, and decided

not to initiate disciplinary actions against RC7.

- e) *In case there is an RC receiving more than 4 warning letters within a short period of time, will the EMSD expedite the review in order to refer the case to the DEVB for establishing a disciplinary board to conduct hearing;*

Answer: In order to timely process the cases involving RCs receiving excessive warning letters within a short period of time, the DAR Panel will carry out review of the RCs which have received 3 or more warning letters within the past 12 months after assessment of Contractors' Performance Rating in each quarter, and to refer serious cases to the DEVB for arrangement of disciplinary board hearings. For those RCs which have received 4 or more warning letters within a short period of time, the EMSD will expedite the review and step up the inspections of these RCs in order to monitor their performance.

2. *According to para. 2.19(b) regarding the EMSD's responses, will the EMSD issue warning letter instead of according PM points when the severity of the case reaches a certain level. If affirmative, what is the level of severity of the case when the EMSD issues warning letter instead of according PM points. Is there any relevant internal guideline to follow? Had the concerned registered contractor mentioned in para. 2.18 proposed to the EMSD to issue warning letter instead of according PM points.*

Answer: As mentioned in para. 2.8 of the Audit Report, 2 to 15 PM points would be accorded to RCs for non-compliance items found during the EMSD site inspection or discovered in other circumstances in accordance with the non-compliance items list of the Performance Assessment Scheme. The points reflect the level of poor performance of the RCs when carrying out lift/escalator works. If the identified non-compliance items are not covered in the Performance Assessment Scheme, the EMSD will not be able to accord PM points to the concerned RCs. Under such circumstances, the EMSD will take appropriate administrative measures, such as issuing warning letters to alert the RCs regarding the concerned issues and request for taking appropriate actions to rectify the non-compliance condition. Regarding the case as mentioned in para. 2.18, since the non-compliance items were not covered in the Performance Assessment Scheme, the EMSD thus issued warning letters to the concerned RCs (RCs 8 & 9). In this case, RCs 8 & 9 had not suggested the EMSD issue warning letters instead of according PM points. The EMSD will regularly review the Performance Assessment Scheme in order to incorporate all significant non-compliance items of RCs into the scope of the Scheme.

3. *Had the EMSD urged RCs 18, 19 and 20 (para. 2.29) to submit the handover examination reports; if affirmative, how many times had these 3 contractors been urged, and by what means did the EMSD urge them. Could the EMSD provide relevant record; if negative, what is the reason.*

Answer: The Code of Practice for Lifts Works and Escalator Works (“the Code”) issued by the EMSD mainly provides guidance to the trade practitioners. Section 5.4.5(b) of the Code recommends RCs arrange a thorough examination of the lifts/escalators within two weeks’ time from overtaking the maintenance works of these lifts/escalators, and to submit to the EMSD a duly completed thorough examination report for record purpose. However, the Code only serves as guidance to the responsible persons of lifts/escalators and RCs to set aside resources to arrange examination of the lifts/escalators so as to minimize possible contractual disputes upon discovery of defects after the handover period. Such examination is not a legal requirement. In addition, on top of the recommendations stated in the Code, the EMSD has taken a step forward and established a handover checklist, and suggests the responsible persons of lifts/escalators and registered contractors use the checklist during the handover period of the lifts/escalators. The checklist has been uploaded to the EMSD website.

Since the carrying out of handover examination within 2 weeks’ time is a recommendation in the Code but not a legal requirement, the EMSD in general will not urge relevant parties to submit the examination report. As such, the EMSD did not urge RCs 18, 19 and 20 to submit the relevant handover examination reports.

4. *Para. 2.36 indicates that there are currently 302 out of 332 registered engineers being employed by registered contractors. Please inform whether the remaining 30 registered engineers are employed by the EMSD. If affirmative, what are their main duties; if negative, by whom are they employed. Should the EMSD monitor the 302 registered engineers employed by the registered contractors via its own registered engineers; Does the EMSD consider that the existing manpower for monitoring the registered engineers sufficient.*

Answer: Currently, there are 302 out of 332 registered engineers employed by RCs, while the remaining 30 registered engineers are self-employed or employed by other organizations which are not RCs, for example, consultants related to lift and escalator engineering and educational institutions. The Lifts and Escalators

Ordinance (the “Ordinance”) has no provision that monitoring work of registered engineers shall be performed by registered engineers. All professional engineers of the EMSD are Corporate Members of the Hong Kong Institution of Engineers or equivalent responsible for carrying out the enforcement works of the Ordinance, including monitoring of the performance of registered lift/escalator engineers. The EMSD considers that the existing team of professional engineers has appropriate professional qualifications and experience to carry out the enforcement works of the Ordinance. The EMSD will also keep reviewing its manpower resources and to redeploy available resources in accordance with operational needs for monitoring of the performance of registered engineers.

5. *Para. 2.47(a) indicates that a registered engineer with the assistance of supporting workers could have adequate time to examine up to eight lifts on a single day; para. 2.47(b) indicates that the EMSD adopted “nine lifts or more on a single day” as the current benchmark for follow-up action. In this connection, would the EMSD inform this Committee:*

a) *Para. 2.45 mentions that there were 27 occasions when 1 registered engineer had conducted lift examination works on 8 lifts on a single day. Were the registered engineers assisted by supporting workers;*

Answer: **It requires two or more persons to carry out and complete certain works in a lift examination. Therefore, regardless of the number of lift examined, all registered engineers require assistance from supporting workers to carry out the works during their examination. Otherwise, the examination works could not be completed.**

b) *For Para. 2.45, why did the EMSD only request 4 of the registered engineers who have conducted excessive lift/ escalator examination works to provide explanations, but not requested the remaining 58 registered engineers who have conducted excessive lift/ escalator examination works to provide explanations? How many lift/ escalator examination works had those 4 registered engineers conducted?*

c) *Had all the 58 registered engineers mentioned in para. 2.46 conducted examination works for less than 9 lifts in a single day;*

Answer: The following are the consolidated responses to (b) and (c):

When a registered engineer signs the safety certificates for nine or more lifts within the same day, the EMSD will request him to explain how the examination work can be completed within the same day. That is the reason why EMSD requested the four registered engineers to provide explanations. The other 58 registered engineers only signed safety certificates for eight or less lifts within the same day which did not exceed the limit set by the EMSD for taking follow-up actions.

d) *Does "up to 8 lifts" in the statement "there is adequate time to examine up to 8 lifts on a single day" indicated by the EMSD refer to the maximum number acceptable by the EMSD under all circumstances; Is there any exceptional condition that is acceptable by the EMSD. If affirmative, what is the reason:*

Answer: The statement "there is sufficient time to examine up to 8 lifts within the same day" indicated by the EMSD refers to the general situations that the EMSD considers reasonable and does not require follow-up actions. Under certain circumstances (such as adopting overtime works or the design and structure of the concerned lift is relatively simple), the EMSD will consider the cases, which "examine 9 or more lifts within the same day", are acceptable if the registered engineers provide reasonable explanations.

e) *Owing to the excessive lift examination works carried out by registered engineer on a single day, would the EMSD consider that the registered engineer had failed to appropriately and completely carry out the statutory duties as listed in para. 2.36? If there is any registered engineer who had failed to appropriately and completely carry out the statutory duties, will the EMSD take any prosecution actions. If affirmative, please inform the details;*

Answer: The EMSD considers that the quality of examination may be affected, for example, insufficient time to complete certain part of the examination procedures, when a registered engineer has carried out examination for excessive lifts on the same day. The EMSD will carry out follow-up investigation on these cases. In addition, the EMSD will monitor the quality of examination through surprise checks. If it was found that the registered engineers had failed to fulfill their statutory duties, appropriate enforcement actions, such as prosecution, disciplinary actions, would be taken.

f) *Will the EMDS follow the Audit Commission's recommendation in para. 2.48 to issue guidelines on the maximum number of lift/escalator to be examined and certified by a registered engineer on a single day, and take follow-up actions on the registered engineers who regularly perform excessive number of examinations on a single day?*

Answer: The EMSD will actively consider the Audit Commission's recommendation and will consult with the trade to study on issuing guidelines to specify the maximum number of lifts and escalators to be examined and certified within a day in general. It will also take follow-up actions for those registered engineers who have regularly carried out excessive examinations within a day.

6. *For the cases as quoted in Para 3.19, please clarify whether the EMSD is aware that the 3 lifts/escalators, in which the prohibition order ("PO") were issued one to three days after the use permit expiry date, had not been used or operated without a valid use permit in force; and whether the EMSD followed the procedure as stated in Para 3.17 of the Audit Report to handle the above-mentioned cases.*

Answer: According to the EMSD's records, the operation of the lifts/escalators involved in the cases as quoted in Para. 3.19 had already been suspended prior to expiry of the use permits. For the case involving two lifts at the same location, the responsible person of the lifts had appointed a registered lift engineer to examine these lifts before expiry of their use permits. Based on the examination findings, the registered lift engineer considered that these two lifts were not in safe working order due to the lift car platform was seriously rusted and immediately ceased the operation of these two lifts. The registered lift engineer also submitted a written notification to the EMSD about the situation before expiry of the use permits. The EMSD confirmed that the operation of the concerned lifts had already ceased before expiry of the use permits. Another case involved an escalator in which the EMSD confirmed that the escalator service had already been suspended for repair prior to expiry of the use permit. The EMSD had followed the procedures as summarized in Para 3.17 of the Audit Report in handling the above-mentioned cases, which include:

- (a) Sending reminder cards to Responsible Persons ("RPs") two months and one month respectively before the permit expiry dates;
- (b) Reminding RPs by telephone two weeks before the permit expiry dates; and
- (c) Issuing prohibition orders ("POs") to ensure that the concerned lifts/escalators are not put into use when no valid use permits are in force.

7. *According to Table 5, would the EMSD please explain why the POs for the 36 lifts/escalators were issued after the maintenance services of the concerned installation had been terminated for 34 days to 298 days? For the 21 lifts/escalators, would the EMSD please explain why PO had not been issued by end December 2015 and inspection were only arranged in January to February 2016? Did the EMSD know and how did the EMSD ensure the 57 lifts/escalators as quoted in Table 5 of the Report were at low risk level?*

8. *According to Table 6, the Audit Commission sample checked 50 POs and noted the concerned POs were not issued before the effective date of the POs. Would the EMSD please clarify whether this is the normal practice of the EMSD? Is there any difficulty to issue PO before the effective date of the PO?*

Answer: The following are the consolidated responses to Q7 & Q8:

The Ordinance was implemented in December 2012. It has introduced a series of new and enhanced legal obligations and liability for RPs. According to the Ordinance, a person shall not use or operate a lift/escalator under any of the following situations: (a) no valid use permit being in force; (b) major alteration/repair/demolition of the lift/escalator being carried out, or (c) the RP does not arrange periodic maintenance works for the lift/escalator at least once a month. In any event under the aforesaid situations, it is the statutory obligations of RPs to ensure that their lifts/escalators are not used or operated, and it is a statutory offence if RPs allow the use or operation of their lifts/escalators. In the initial stage of implementing the Ordinance, the EMSD has not only carried out a series of publicity work for RPs, but also taken proactive measures to prevent them from committing offences under the new Ordinance through issuing POs to ensure that their lifts/escalators are not used or operated under the aforesaid situations. It is not a statutory requirement for the EMSD to issue POs to RPs in all the said situations. With enhanced knowledge and awareness of RPs on their statutory obligations under the Ordinance, the EMSD will review the necessity of continuing with the above-mentioned proactive approach currently adopted and will take appropriate enforcement actions against RPs who have not properly discharged their duties under the Ordinance.

According to the EMSD's records, the RPs of the 36 lifts involved in the cases as quoted in Table 5 of para. 3.22 had already suspended the services of the concerned lifts and the maintenance services of the installations were subsequently suspended.

Hence, there was no contravention of the Ordinance. Amongst those 36 lifts, five of which were under major alteration works and the lift services were suspended during the period of the alteration works. For the remaining 31 lifts installed in a new estate at Yuen Long, the estate remained unoccupied and all the lifts were not in service.

For the 21 cases as quoted in Table 5 of para. 3.22, the RPs of the lifts/escalators involved in 12 of the cases had suspended the services of the concerned lifts/escalators and the maintenance services of the installation were subsequently suspended. Hence, there was no contravention of the Ordinance. Amongst those 12 cases, the services in 10 cases (involving 10 escalators) were suspended as the buildings were under renovation. One case involved an escalator in which the service had already been suspended waiting for repair. Another case involved a lift in which the service had already been suspended as the building owner had terminated the business and the premise was unoccupied. For the remaining 9 cases, the EMSD had verified with the respective registered lift contractors and the associated log book record were also checked during site inspections. The EMSD noted that although the concerned RCs were still liaising with the RPs on the new maintenance contract provision after expiry of the existing contracts, the RCs had continued with the monthly mandatory routine maintenance services for the concerned lifts/escalators such that the normal operation of these lifts/escalators were not affected. Hence, these 9 cases also did not involve any contravention of the Ordinance and issuance of PO was considered not necessary.

Upon receipt of the notification of termination of maintenance contract from the registered lift/escalator contractor, the EMSD would confirm the status of the concerned lift/escalator by directly contacting the RP of the lift/escalator in accordance with the enforcement practice of the EMSD. Hence, the EMSD confirmed there was no contravention of the Ordinance for the 57 lifts/escalators as quoted in Table 5. As it was actually unnecessary to issue POs to RPs in the said situation, the EMSD did not issue POs for all cases. The exact date of issuance of POs would also be subjected to the operational arrangement of the EMSD.

Table 6 summarized the 50 cases on POs issuance as sample checked by the Audit Commission. There was a case in which the PO was issued on the effective date of the PO. The lifts/escalators involved in the remaining 49 POs were under major alterations and the services were suspended. As it was actually unnecessary to issue POs to RPs in the said situation, the EMSD did not issue POs for all cases. The

exact date of issuance of POs would also be subjected to the operational arrangement of the EMSD.

9. *Please provide the numbers and details of the non-reportable lift/ escalator incidents that had come to the EMSD notice through the public's reporting or media reports in 2015. According to para. 3.36(b), certain non-reportable incidents may pose safety risk problem. Does the EMSD plan to classify certain non-reportable incidents as reportable incidents? If affirmative, please inform the details and time table.*

Answer: In 2015, a total of 69 non-reportable lift/escalator incidents were notified to the EMSD either through the public's reporting or media reports. The cases were mainly due to smoke incident due to overheat of machinery, damages of lift/escalator equipment, passenger entrapment etc. No passenger injury or failure of safety equipment was involved in these cases. The EMSD conducted investigation according to the situation of respective cases.

The EMSD agreed to the recommendation from the Audit Commission and would regularly carry out review to consider classifying those non-reportable lift/escalator incidents which might pose significant safety risk to passengers as reportable incidents under the Ordinance.

10. *For Part 4, how many management information systems does the EMSD currently use to manage the lift and escalator information. Will the upgrading and integration of different information systems help develop a complete integrated information management system to replace the existing systems that are being used simultaneously? Please provide details of the concerned upgrading and integration plan and time table.*

Answer: The information of lifts and escalators as mentioned in the Audit Report includes lift/escalator inspection records and lift/escalator model and manufacturer names. Before 2015, apart from the Lift and Escalator Ordinance System, the lift/escalator inspection records were kept in different data management systems. From January 2015 onwards, all relevant lift/escalator inspection records have been input and maintained in the Lift and Escalator Ordinance System. The lift/escalator model and manufacturer names are also being progressively input to the Lift and Escalator Ordinance System and the entire work is targeted to be completed by end 2016.