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Immigration Department

In reply please quote this ref : IMM/CR 1708

貴署檔號 Your Ref. : CB4/PAC/R76

21 May 2021

Ms Wendy JAN  
Clerk, Public Accounts Committee  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms JAN,

**Public Accounts Committee**  
**Consideration of Chapter 1 of the Director of Audit's Report No. 76**  
**Management of birth, death and marriage registrations**

Thank you for your letter of 12 May 2021.

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Regarding your request for written response of the Immigration Department to the issues as set out in Part (I) of the Appendix of your letter, we have enclosed our reply for the consideration of the members of the Public Accounts Committee.

The Immigration Department would like to take this opportunity to reassure the Chairman and members of the Public Accounts Committee that this Department will pay due attention to the requirement that government departments should avoid making public responses to Audit Report before the public hearings by the Committee, and will ensure no recurrence of similar incident.

/.....If

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If you have any enquiries, please contact the undersigned on 2829 3838.

Yours Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a smaller loop and a short horizontal stroke.

( FAN Hiu-sing )  
for Director of Immigration

c.c. Secretary for Security (with encl.)

**Reply to Public Accounts Committee**  
**Consideration of Chapter 1 of the Director of Audit's Report No. 76**  
**Management of birth, death and marriage registrations**

**Part 2: Registration of births and deaths**

- Q1** According to paragraph 2.18 of the Director of Audit's Report No. 76 ("Audit Report"), the Births and Deaths Registration Ordinance (Cap. 174) ("BDO") states that deaths from natural causes shall be registered within 24 hours, and that a person who fails to perform the duty shall be liable on summary conviction to a fine at level 1 or to imprisonment for six months. However, the Audit Commission ("Audit")'s analysis of the data of death registrations at the three death registries for the period from January 2015 to October 2020 revealed that, out of 213 770 registrations of natural deaths, 103 816 (49%) were made at least three days after the dates of death (with the longest being 665 days), well exceeding the 24-hour legal requirement. Do you agree that it is not acceptable to have such a large proportion of cases which are not in compliance with the statutory provision of BDO? Have you assessed the legal implications of such non-compliance? How will you address this issue?
- Q2** Were you aware of the non-compliance before Audit raised the issue in the audit review? If yes, what had been done to address the issue? Were the actions taken effective?
- Q3** According to paragraph 2.19(a) of the Audit Report, the Director of Immigration has said that the time limit for death registration appeared to be on a very stringent side in today's context. While the legal time limit may be stringent in today's context, do you agree that it is not an acceptable excuse for any person concerned not to duly perform the duty to comply with the legal requirement? For cases involving long delays in registration of natural deaths, will you consider taking legal actions against the persons concerned?

(Consolidated reply to Q1-3)

**A1-3** According to section 14 of the BDO, the informant (being the nearest relative or other relevant person of the deceased) is required to register a death from natural causes within 24 hours (exclusive of the time necessary for the journey and of any intervening hours of darkness and of general holidays as defined by the General Holidays Ordinance (Cap. 149)) after such death. Section 25 of the BDO provides that any person who being charged with the duty of registering deaths refuses or, without reasonable excuse, omits to register a death shall be deemed to have committed a breach of the relevant provision of the BDO. In accordance with section 28 of the BDO, the offender shall be liable on summary conviction to a fine of HK\$2,000 or imprisonment for 6 months.

As learnt from our operational experiences, ImmD is aware that there are some common reasons for registration of deaths from natural causes beyond 24 hours. For example, relatives of the deceased might not be able to secure the Medical Certificate of the Cause of Death on the same day, or relatives of the deceased took time to follow up funeral arrangements and engage funeral company for completing death registration and related actions (e.g. cremation booking) in one go. Having considered that legal time limit has excluded the time necessary for journey (i.e. travelling time), intervening hours of darkness and general holidays, as well as the practical time for securing the Medical Certificate of the Cause of Death and engaging funeral companies for arrangements, it is not unreasonable that a certain amount of deaths would have been registered beyond 24 hours.

In fact, our statistics shows that a vast majority of natural deaths (around 93%) were actually registered within 7 days. For the particular quoted case where the death was registered 665 days after the date of death was an isolated case, which involved an unclaimed body reported to ImmD by the hospital some 600 days after the date of death.

Having balanced the difficulties encountered by the informant and the implication of beyond 24-hour death registrations as required by the BDO, a more humanistic and realistic approach has been adopted to administer the registration of deaths having regard to the bereaved's

need to cope with the grief over the loss of their loved ones and handle the after-death arrangement of their lost loved ones. Subject to the circumstances of individual cases, being unable to register deaths from natural causes within the prescribed period owing to the abovementioned grounds might generally be considered as reasonable excuses, and therefore would not be considered as a breach of the provisions of the BDO.

ImmD agrees with the Audit's comment and will critically explore measures to enhance publicity to draw the attention of members of the public to the legal time limit for registering deaths. On 21 May 2021, we have added a notice on ImmD's website and updated the guidance note to remind members of the public regarding the legal requirement of registering death within 24 hours for deaths from natural causes. At the same time, ImmD has already kick-started the liaison with the hospitals on 20 May 2021 with a view to exploring the feasibility of seeking their assistance of disseminating information. ImmD will work with the hospitals and solicit their assistance to distribute the said guidance note on application procedure of death registration to relatives of the deceased together with the Medical Certificate of the Cause of Death or other appropriate venues as appropriate so as to remind the relatives of the deceased of the legal time limit for death registration.

With a view to addressing the issue of non-compliance, ImmD is also devising a mechanism to enhance the monitoring of late registration of death cases by requesting informants to explain the reasons of delay in registering the death. For cases in which the death was registered over 24 hours but within 7 days of the death, the informant will have to provide reason for late registration by filling in a supplementary information sheet. For cases in which the death was registered over 7 days after the death, the informant will be required to provide explanation with supporting documents (if any) for late registration on a separate form. ImmD will then examine the facts and circumstances of each case and further actions will be taken on cases where there is no reasonable excuse for such late registration. It is planned to implement this mechanism in June 2021.

As the current BDO was enacted back in 1934 and the provision prescribing the time limit for registration of deaths from natural causes

has not been reviewed since. Whilst we are unable to ascertain the original legislative intention for the concerned provision given the long lapse of time and the absence of record, one possible reason for setting such a rather stringent requirement might have been to ensure the proper and prompt handling of the remains of a deceased for better control of environmental hygiene and prevention of diseases at the time. With the substantial improvement in the public health infrastructure, medical care and environmental hygiene over the past decades, there is room for closer examination as to whether the prescribed time limit should be adjusted taking into account the present-day context and the need of the nearest relatives or other relevant persons of the deceased to handle the after-death arrangement of their lost loved ones while coping with the grief over the loss of their loved ones. ImmD will liaise with SB to conduct a review as appropriate and subject to the outcome of the review, the necessary legislative amendments may be considered.

**Q4 According to paragraph 2.5 of the Audit Report, the number of registered births decreased significantly by 21% from 53 173 in 2019 to 41 958 in 2020, resulting in the first natural population decrease since 1960s. According to paragraphs 2.13(a) and 2.14(a) of the Audit Report, you have agreed to continue to keep under review the manpower deployed on birth registration work in the Immigration Department (“ImmD”)’s birth registries and make adjustments where appropriate. Have you conducted any review? If yes, what is the review result; if no, why not?**

**A4** ImmD conducts manpower review from time to time and makes adjustments where appropriate. For example, following the implementation of the zero-quota policy on obstetric services for Mainland pregnant women whose spouses were not Hong Kong residents, a review of the manpower of Kowloon Births Registry (KBR) had been conducted. In light of the reduction in demand for birth registration, KBR has provided a new one-stop service for birth registration-cum-application for the Hong Kong Special Administrative Region (HKSAR) Re-entry Permits since 2014. Also, it is worthy to note that workload of other services provided by birth registries (e.g. handling search of birth records and applications for certified copy of birth certificates) for all birth registries has increased significantly over the years.

The unusually low number of birth registrations in 2020 was believed to be due to the Covid-19 pandemic and it might not be representative enough to indicate the long-term birth-rate trend in Hong Kong. To better illustrate the workload of birth registries, a comparison on the workload between 2000 and 2019 is shown in Table 1 below. For a more meaningful comparison, figures were drawn between 2000 and 2019 instead of 2020 (the average number of birth registration between 2017 and 2019 is around 54 800).

*Table 1: Comparison of Workload in 2000 and 2019*

<b>2000</b>	<i>Number</i>	<i>Processing Time (Mins)<sup>Note</sup></i>	<i>Total Man Hour (Mins)</i>
<i>Birth Registration</i>	<i>53 720</i>	<i>30</i>	<i>1 611 600</i>
<i>Search of Birth Record</i>	<i>3 351</i>	<i>10</i>	<i>33 510</i>
		<b>Total:</b>	<b><u>1 645 110 (27 419 hr)</u></b>
<b>2019</b>			
<i>Birth Registration</i>	<i>53 173</i>	<i>30</i>	<i>1 595 190</i>
<i>Search of Birth Record</i>	<i>13 810</i>	<i>10</i>	<i>138 100</i>
<i>Application for HKSAR Re-entry Permit (KBR only)</i>	<i>12 223</i>	<i>30</i>	<i>366 690</i>
		<b>Total:</b>	<b><u>2 099 980 (35 000 hr)</u></b> <b><u>(+27.6% vs year 2000)</u></b>

*Note: Abovementioned processing times are based on standard processing times at counter of Performance Pledge. Time required for the issuance of certified copy of a birth entry after completion of birth registration and search of birth record, and that for production and issuance of HKSAR R/P are not included.*

While the number of birth registration has decreased by 1% from 53 720 in 2000 to 53 173 in 2019, the number of applications for other arrays of duties has seen some increases. To quote, search of birth records

has increased by four folds from 3 351 in 2000 to 13 810 in 2019. A total of 12 223 applications for HKSAR Re-entry Permit were processed by KBR in 2019. Considering the standard processing time of 30 minutes, 10 minutes and 30 minutes respectively for birth registration, search of birth record and application for HKSAR Re-entry Permit, the total man hour required on all works relating to birth registration and application for HKSAR re-entry has increased by 27.6% from 27 419 hours in 2000 to 35 000 hours in 2019. ImmD has gainfully deployed manpower to tackle the increase in workload in other arrays of duties which has not been offset by the decrease in the number of birth registration.

In light of the Audit's comment, ImmD is conducting a review on the manpower of KBR. A review has been commenced on 17 May 2021 to explore the feasibility of enhancing KBR's one-stop service by further providing service of application for HKSAR passport in addition to the existing service of application for HKSAR Re-entry Permits and birth registration. Later, a review on the overall manpower and services of General Register Office will be commenced after the completion of the abovementioned review for KBR.

**Q5 According to paragraph 2.6 of the Audit Report, ImmD pledges to process a birth registration within 30 minutes at counter but does not keep records on the processing time. As stated in ImmD's Controlling Officer's Report ("COR"), ImmD met the performance pledge in 99.7% of the birth/death/adoption registration cases in 2019. How did ImmD assess the achievement of the performance pledge without recording the processing time for birth registration cases?**

**A5** The Immigration Department publishes the Performance Pledge and evaluates its accomplishment of targets every year. Currently, the standard processing time at counter for a birth registration is within 30 minutes under normal circumstances.

Between 2015 and 2020, over 99.5% of birth registrations met the standard processing time. In general, counter officer will assess the nature of each birth registration case and if the case is of complicated nature such as when assessment of Hong Kong permanent resident status



of non-Chinese citizens or further enquiries on the information of the father of an illegitimate child is required, the counter officer will mark down the start and end time of the birth registration. If the processing time eventually exceeds 30 minutes at counter, the counter officer will record the case with reasons accordingly and the deputy officer-in-charge who will collect such information from counter officers and compile statistics on cases where the 30-minute pledge could not be achieved on a regular basis. As the statistics targets to record the percentage of cases where the pledge could not be achieved, we are able to assess the achievement of the performance pledge even though cases processed within the pledged time are not recorded. In fact, during the sample checking conducted by the Audit Commission at different counters, all the processing times of birth registrations were within the pledged time.

**Q6** According to paragraphs 2.13(b) and 2.14(b) of the Audit Report, you have agreed to explore the feasibility of introducing a new system function to keep track of the processing time for birth registrations in the next generation of Application and Investigation Easy Systems ("APPLIES-2"), which is expected to be rolled out by phases from the fourth quarter of 2021. Have you completed the feasibility study of introducing such new system function? If yes, what are the findings of the study; if no, what is the progress of the study?

**A6** The study of introducing a new system function to keep track of the processing time for birth registrations in the APPLIES-2 has been completed and confirmed feasible. While functions in relation to birth registrations in the APPLIES-2 will be rolled out during the period from the 4th quarter of 2021 to the 3rd quarter of 2022 by phases, ImmD will introduce a new system report to record the processing time of each birth registration in the 1st quarter of 2022 when the system development and testing are completed.

After roll-out of APPLIES-2, time log will be automatically recorded at the start (when the application is indexed) and end point (when the case is routed to officer for assessment) of the birth registration. Report will be available to record the counter processing time of all cases and highlight those cases falling outside the performance pledge.

**Q7** According to paragraphs 2.10 and 2.11(b) of the Audit Report, there were 150 unregistered birth cases (i.e. registration outstanding for 43 days or more from the date of birth of the child) as at 31 October 2020. As at 18 March 2021, birth registration for 138 of the 150 cases had been completed and the remaining 12 cases were still outstanding pending submission of documents required for birth registration. Has the birth registration of these 12 outstanding cases been completed? If not, the anticipated processing time to be required for these 12 outstanding cases?

**A7** As at 18 May 2021, among the 12 outstanding birth registration cases, nine of them had been registered and three cases were still outstanding. One of these three outstanding cases have been referred to Investigation Sub-division at early stage for their investigation on the suspected offence of the mother. The mother was a former foreign domestic helper and the father's information was not provided in the birth return of the baby. She was suspected of having overstayed in Hong Kong since 27 February 2018 when the unregistered birth case of her baby came to our notice. This case has been referred to Investigation Sub-division for investigation on 6 April 2018, much earlier than the 6-month timeframe. While the case was under investigation, in parallel, attempts have been being made to contact the mother for processing birth registration. Despite our attempts to approach the mother by phone and our sending of two 2 reminder letters, the telephone number was found to have been disconnected and the two reminder letters were bounced back. Until now, we are unable to locate the mother. For the remaining two cases, due to their unusual background, some special considerations are involved. For one case, the couple are not married and the mother is still in a coma. According to Section 12(2)(d) of the BDO, court order is required for the registration of the illegitimate child by the father of the child. The father informed us that the court order will be issued in late May and he will visit birth registry once ready as the submission of relevant court order is requisite for proceeding with the birth registration. For the other case, the couple are also not married. The mother has health problem and the father is in the Mainland. The couple would like to perform birth registration by joint request in accordance with section 12(2)(a) of the BDO. However, due to the COVID-19 pandemic, the father expressed difficulties in applying

for exit endorsement to come to Hong Kong and he was unable to afford the period of compulsory quarantine. We are maintaining close communication with the couple to provide any facilitation in assisting them in the birth registration.

**Q8 According to paragraph 2.11 of the Audit Report, ImmD's guidelines had not promulgated the details for handling unregistered birth cases warranting flexible handling (e.g. deferment in sending reminder letters to the parents) due to various reasons. According to paragraphs 2.13(c)(i) and 2.14(c) of the Audit Report, you have agreed to strengthen the relevant parts of the guidelines on handling unregistered birth cases by citing examples of common scenarios warranting flexible handling for ImmD officers' reference. Have you amended the guidelines? If not, when will the enhanced guidelines be available?**

**A8** In response to the Audit's comment, ImmD have reviewed the internal guidelines and issued a new internal guidelines on the handling procedures of unregistered birth cases on 11 May 2021. Examples of common scenarios warranting flexible handling cited in this new guidelines includes:

- (i) parents/the Social Welfare Department (SWD) had been successfully contacted and reasons for the delay had been acknowledged for flexible handling (e.g. health problem);
- (ii) parents are persons in custody being detained in correctional institutions where assistance from Correctional Services Department is required; and
- (iii) service suspension/special work arrangements had been in place due to special situation (e.g. the COVID-19 epidemic).

All services staff of BDM Registration (Operations) Section were briefed about the strengthened procedures in handling unregistered birth cases and they would comply with the instructions.

**Q9** According to paragraph 2.12 of the Audit Report, from June 2018 to 31 October 2020, 15 unregistered birth cases were referred to the General Investigation Section ("GIS") for investigation. As at 31 December 2020, 11 of the 15 unregistered birth cases had been closed while the remaining four were still under investigation. What is the progress?

**A9** Under the Births and Deaths Registration Ordinance, parents of every child born shall apply for the registration of the child's birth at a birth registry within a period of 42 days after birth. It is an offence if anyone deliberately fails to register the birth of a child as required by the law. Offenders are liable to a fine at level 1 (\$2,000) or up to six months' imprisonment. While the parents concerned who breached the requirement are liable to penalty, it is worth mentioning that when handling cases of unregistered birth, the benefit and welfare of the newborn are of paramount importance, and locating the parents to complete the birth registration of the children is the foremost consideration rather than conducting investigation or instituting prosecution against them. Among the 11 completed cases, there was a case in which the subject father was brought up to court and sentenced to a fine of \$1,500 after conviction; for three cases, after seeking advice from Department of Justice (DoJ), prosecution was waived due to insufficient evidence; for another six cases, prosecution was waived based on DoJ advice sought on previous cases; the remaining case was concluded with no further action taken since the prosecution had already been time-barred.

For one of the four cases under investigation as at 31 December 2020, the father concerned was intercepted by case officer upon collection of his new Smart Identity Card on 18 May 2021. Arrangement was also made to complete his baby girl's birth registration in the same afternoon. Inquiry into his offence has been conducted and the case would be passed to prosecutorial assessment.

In another case, case officer maintained close liaison with other departments for locating the mother concerned, and upon ongoing record check, it was learnt that she is a subject of investigation under the Police. Whilst she had jumped the police bail since 20 November 2020, the latest information indicated that the mother concerned was

arrested by the Police again and was required to report bail on 20 May 2021. With close liaison and coordination with the Police, case officers successfully intercepted the mother concerned at the police station on 20 May 2021. Although the birth registration of her child had already been performed by SWD, inquiry into her offence has been conducted and the case would be passed to prosecutorial assessment.

For the two remaining cases involving two non-Hong Kong resident foreign mothers, investigation is ongoing. In these two cases, case officers had attempted to contact the mothers concerned and conduct field visits not only on weekdays but also during the weekend and on public holiday. Officer had also maintained effective communication with other government bodies, including Social Welfare Department (SWD), Correctional Services Department, a non-government organization (International Social Service) and the Family Court with a view to discovering more information and contact means of the mothers concerned. While the mothers could not be successfully located after available contact means have been exhausted, all of their particulars have been placed in Immigration Department's computer system, pending interception when they use immigration facilities. One of the two mothers concerned had used immigration facilities, appointment was made with her to attend inquiry but she failed to show up afterwards. Although she remained untraceable, the Director of Social Welfare had been appointed as the guardian of her baby and completed the birth registration, thus ensuring the baby's welfare. Another mother was also an overstayer; her whereabouts and that of her baby remained uncertain. As the mothers had tried to deliberately evade our investigation and consequently obstruct our officers from exercising their duties, case officers enlisted assistance from the Police to put their particulars as wanted persons for interception.

Immigration Department will keep close monitoring on the development of each and every case and strive to locate the parents concerned by various possible means. When information was received indicating the parents might attend Immigration Department offices, other government departments or non-government organisations for facilities or services, Immigration Department will take proactive actions to deploy investigators on-site to complete the inquiry with the parents and arrange them to fulfill their duty to perform the birth registration at the soonest.

**Q10** According to paragraph 2.12(a) of the Audit Report, Audit found that in one unregistered birth case: (i) GIS tried to contact the parents by phone once in each month during the period from November 2018 to February 2019 and on each occasion, GIS tried to phone the parents on weekdays with the same set of phone numbers; and (ii) GIS could only contact one parent who was intercepted by ImmD in December 2019 when prosecution had already been time-barred. According to paragraph 2.14(d) of the Audit Report, you have said that ImmD officers will stay vigilant in formulating comprehensive strategies in locating parents for investigation. Have you explored effective strategies in locating the parents? If yes, the details; if no, why not? Will you update the relevant guidelines for ImmD officers' reference?

**A10** Immigration Department shall endeavor to formulate the investigation strategy at the soonest when handling unregistered birth cases, completion of every single case would be varied depending on its uniqueness and complexity.

Case officer would make reference to the stipulated guidelines to comprehensively cover all possible means in locating the parents concerned of unregistered birth case for a speedy resolution of the case. Taking the case concerned as an example, within the first four months after receiving the referral from November 2018 to March 2019, case officer not only made phone calls to the reported telephone numbers, which were the only numbers available in Immigration Department records, but also conducted surprise field visits to their four reported addresses. During the course of investigation, case officer also maintained effective communication with other government bodies, including Social Welfare Department (SWD), Correctional Services Department, and the Family Court, with a view to discovering more information and contact means of the concerned parents, with the ultimate aim of locating their whereabouts.

The Director of Social Welfare was appointed as the guardian of the child and completed the birth registration on 12 December 2018. Despite the case officer had taken all the actions mentioned above, the parents were still untraceable. Notwithstanding the welfare of the

child has been properly ensured by SWD and the birth registration successfully completed, Immigration Department continued the investigation efforts and placed the parents' particulars into the computer system on 26 April 2019, so that when they used immigration facilities and clearances, either of them would be intercepted for follow-up action, even though our officer had evaluated that the chance to intercept the parents at control points was slim based on their previous travel pattern (last movement of mother was in July 2017 and father in January 2018). Not until 4 December 2019, the subject mother was successfully intercepted at Lok Ma Chau Control Point when the prosecution had already been time-barred. Even though the above attempts were futile, the actions taken showed that the case officer complied with the guidelines and adopted a comprehensive approach in locating the parents. Indeed, case officer had exhausted all possible means to locate the parents for further investigation in the limited time frame.

The guidelines are considered effective and comprehensive so far, as the concerned parents in 10 out of 11 cases were eventually located and their cases concluded timely using the strategies formulated. With a view to formulating more effective strategy to locate parents concerned for cases of unregistered birth, a new guideline was issued requiring case officers to report the progress of their outstanding cases to Senior Immigration Officer (SIO) at first two months after commencing investigation, and report to the Section Head, i.e. Chief Immigration Officer (CIO) every 2 months thereafter, for seeking directives. If case circumstances warranted or if the concerned parents were involved in other offences, such as perjury or overstaying in Hong Kong, or they had tried to deliberately evade our investigation and consequently obstruct our officers from exercising their duties, case officers would consider enlisting assistance from the Police to put the parents' particulars as wanted persons for interception.

Given that every single case is unique, it has to be considered on its own facts and warrants different strategy, it is not sensible to apply one single rule to all situations, especially investigation of criminal cases. Apart from strictly following guidelines which has always been effective in most cases, case officer would exert his flexibility in handling cases with special circumstances to achieve fruitful result.

Pursuant to Section 7 of Birth and Deaths Registration Ordinance (Chapter 174), the father or mother of every child born alive in Hong Kong shall, within 42 days after the day of such birth, give information to a registrar of the several particulars required to be registered, and shall, in the presence of such registrar, sign and submit to such registrar a register form completed with the information so given. Failing to do so shall be liable to a fine at level 1 (\$2,000) or to imprisonment for 6 months. Nevertheless, according to Section 26 of Magistrates Ordinance (Chapter 227), it is stipulated that the complaint of the aforementioned offence shall be made or such information laid within 6 months from the time when the matter of such complaint or information respectively arose. Therefore, the prosecution is time barred when the mother is intercepted.

Immigration Department reiterated that parents must fulfil their obligations under the law to register the birth of a child so that the rights to medical treatment, education and welfare benefits entitled to their children are not harmed due to delay in following the relevant procedures.

**Q11 According to paragraph 2.12(b) of the Audit Report, for three unregistered birth cases with investigation not completed within four months thus requiring reporting to the Senior Immigration Officer for directive, the related discussions had not been recorded in individual case files. According to paragraphs 2.13(c)(iii) and 2.14(e) of the Audit Report, you have agreed to re-circulate the relevant guidelines for reminding the case officers to strictly follow the management of outstanding investigation cases by recording the direction and supervision given by the Senior Immigration Officer in individual case files. What other improvement measures will you take in the management of outstanding investigation cases?**

**A11** In response to the suggestions made by the Audit Commission, Immigration Department had recirculated the relevant instruction for reminding the case officers to strictly follow the management of outstanding investigation cases. To ensure full understanding and compliance, the said instruction would be arranged for recirculation every 6 months as a reminder.



As mentioned in the Report No. 76 of Director of Audit (Audit report), case officers reported the progress of their outstanding cases in regular group meetings for Senior Immigration Officers' (SIO) information and directives. By recirculating the aforementioned guidelines, case officers were clearly reminded the requirement on making proper record on individual files of all investigation cases to reflect SIOs' due supervision within 4 months after the commencement of respective cases.

Apart from making proper records on case files, a new guideline was particularly issued to enhance the procedures on handling cases of unregistered birth. Case officers are required to report the progress of their outstanding cases to SIO at first two months after commencing investigation, and report to the Section Head, i.e. Chief Immigration Officer (CIO) every 2 months thereafter; case officers are also required to report the progress to CIO 2 months before the expiry of the prosecution time-bar, whichever is earlier. The report and directive from senior officers should be recorded on individual case files.

**Q12 According to paragraph 2.12(c) of the Audit Report, Immigration Department's guidelines on handling unregistered birth cases had not set any time target for commencement of investigation. According to paragraphs 2.13(c)(iv) and 2.14(f) of the Audit Report, you have agreed to set a time target, and issue supplementary guidelines stipulating a clear timeframe for commencement of investigation of unregistered birth cases. What is the progress?**

**A12** For better case management and monitoring purpose, a new guideline was issued by GIS to provide a clear timeframe for commencement of investigation of the unregistered birth (URB) cases. Officers handling URB cases were reminded that all cases should be processed as soon as practicable according to the date of receipt of referral from Birth, Death & Marriage (BDM) Section. According to the guidelines, case officer shall commence investigation, followed by opening case file, within **five working days** after assignment of the URB case.

The aforesaid instruction has been disseminated to all officers of GIS and they were reminded to strictly follow the guidelines and accord priority on the URB cases.

**Q13** According to paragraph 2.17 of the Audit Report, similar to birth registrations, ImmD pledges to process a death registration within 30 minutes at counter but does not keep records on the processing time. According to ImmD's COR, ImmD met the performance pledge in 99.7% of the birth/death/adoption registration cases in 2019. How did ImmD assess the achievement of the performance pledge without recording the processing time for death registration cases?

**A13** ImmD publishes the Performance Pledge and evaluates its accomplishment of targets every year. Currently, the standard processing times for a death registration at counter is within 30 minutes under normal circumstances.

Between 2015 and 2020, over 99.5% of death registrations met the standard processing time. In general, counter officer will assess the nature of each death registration case and if the case is of complicated nature such as those cases involving clarification of the information on The Medical Certificate of the Cause of Death or further enquiries on the personal data of the deceased, the counter officer will mark down the start and end time of the death registration. If the processing time eventually exceeds 30 minutes at counter, the counter officer would record the case with reasons accordingly and the deputy officer-in-charge will collect such information and compile statistics on case where 30-minute pledge could not be achieved on a regular basis. As the statistics targets to record the percentage of cases where the pledge could not be achieved, we are able to assess the achievement of the performance pledge even though cases processed within the pledged time are not recorded. In fact, during the sample checking conducted by the Audit Commission at different counters, all the processing times of death registrations were within the pledged time.

**Q14** According to Table 7 in paragraph 2.17 of the Audit Report, the waiting time for counter services at the Kowloon Deaths Registry on the date of Audit visit (i.e. 12 January 2021) was significantly shorter than that during the eight working days before Audit visit (i.e. 2 to 11 January 2021). Can you explain why?

**A14** Due to the specific nature of death registrations, we do not implement a booking system and impose a quota limit for its service. As the Kowloon Deaths Registry (KDR) operates on a first-come-first-serve basis, the waiting time for service will be significantly longer if attendees happen to come together at a certain point of time. By experience, bunching usually appears in morning and after lunch as many attendees may tend to queue for service before the opening of the registry. For the period from 2 to 11 January 2021, the average workload of KDR was ranged from 100 to 153.

Meanwhile, the number of deaths registered on 12 January was at the low side of 104, which was the 2nd lowest number for weekdays during the said period.

It is also worthy to note that the waiting time may vary depending on the complexity of cases on that particular day.

**Q15** **According to paragraphs 2.22(a) and (b) of the Audit Report, you have agreed to explore the feasibility of introducing a new system function to keep track of the processing time for death registrations in APPLIES-2 and installing an electronic ticketing system at the Hong Kong Island Deaths Registry. What is the progress?**

**A15** Currently, counter officer will assess the nature of each death registration case and if the case is of complicated nature such as those cases involving clarification of the information on The Medical Certificate of the Cause of Death or further enquiries on the personal data of the deceased, the counter officer will mark down the start and end time of the death registration. If the processing time eventually exceeds 30 minutes at counter the counter officer would record the case with reasons accordingly and the deputy officer-in-charge will collect such information and compile statistics on cases where the 30-minute pledge could not be achieved on a regular basis.

The study of introducing a new system function to keep track of the processing time for death registrations in the APPLIES-2 has been completed and confirmed feasible. While functions in relation to death registrations in the APPLIES-2 will be rolled out during the period from the 4th quarter of 2021 to the 3rd quarter of 2022 by phases, ImmD will

introduce a new system report to record the processing time of each death registration in the 1st quarter of 2022 when system development and testing are completed.

After roll-out of APPLIES-2, time log will be automatically recorded in APPLIES-2 at the start (when the application is indexed) and end point (when counter officer indicated the case is finalized in the system) of the death registration. Report will be available to record the counter processing time of all cases while highlighting cases falling outside the performance pledge.

Electronic ticketing system will be rolled out along with APPLIES-2 from in the 4th quarter of this year. By then, informants could obtain a computer-generated ticket showing their queuing number as well as the estimated service provision time from the electronic ticketing system instead of a number tag. Monitors will also be placed inside the waiting area showing the service progress so that the informants could have a better idea on their queuing position. The service of electronic ticketing system will cover the Hong Kong Island Deaths Registry.

**Q16 According to paragraph 2.22(c) of the Audit Report, you have said that ImmD will explore measures to encourage members of the public to conduct death registrations as soon as practicable and draw the attention of members of the public of the legal time limit for registering deaths, such as adding a notice on ImmD's website, guidance note, pamphlet, etc. Have you done so? If yes, details of such measures.**

**A16** In order to encourage members of the public to perform death registrations for the deceased from the natural causes as soon as practicable and draw their attentions to the legal time limit for death registration, ImmD has already updated 1) its homepage and 2) GovHK website by adding important messages in related webpages to remind the public the legal requirement of death registration within 24 hours (for death from natural causes) as specified under section 14 of the BDO on 21 May 2021. Guidance note “How to Apply: Death Registration” made available at death registries on the procedure of death registration incorporating the legal requirements of death registration within 24 hours (for death from natural causes) has been updated on 20 May 2021.

ImmD has also kick-started the liaison with the hospitals on 20 May 2021 with a view to exploring the feasibility of seeking their assistance to distribute the said guidance note “How to Apply – Death Registration” to relatives of the deceased together with the Medical Certificate of the Cause of Death or other appropriate venues so as to remind the relatives of the deceased of the legal time limit for death registration.

**Q17** According to paragraphs 2.24(a) and 2.25 of the Audit Report, you have agreed to consider including the issue of certified copies of birth/death certificates involving search of records as one of the key performance measures in ImmD's COR. What is the progress?

**A17** The issue of certified copies of birth/death certificates involving search of records will be included as one of the key performance measures in COR from the next financial year.

**Q18** According to paragraphs 2.24(b) and 2.25 of the Audit Report, for monitoring the waiting time for death registrations, you have agreed to consider the feasibility of providing "programme tag" with the estimated service time to members of the public so as to enhance ImmD's standard of service. What is the progress?

**A18** Electronic ticketing system will be rolled out along with APPLIES-2 in the 4th quarter of this year. By then, informants could obtain a computer-generated ticket showing their queuing number as well as the estimated service provision time from the electronic ticketing system instead of a number tag. Monitors will also be placed inside the waiting area showing the service progress so that the informants could have a better idea on their queuing position.

During the transitional period, ImmD has implemented interim measures since 20 May 2021 to enhance its services by providing information of estimated waiting time to applicants when situation warrants. Upon issuing tags, staff at the Hong Kong Island Deaths Registry and Kowloon Deaths Registry would make reference to the number of informants waiting for services and manpower available to provide an information card advising the informants of the estimated

period of time that he needs to wait before the death registration can be conducted. The informant may approach the Registry in accordance with the estimated waiting time and this would facilitate their personal arrangement by shortening the waiting time at the Registry.

### **Part 3: Registration of marriages**

**Q19** According to paragraph 3.3 of the Audit Report, for the period from January 2015 to October 2020, the utilization rates of the five marriage registries on weekdays (17% to 75%) were lower than those on Saturdays (55% to 98%) and only one of the five registries (i.e. City Hall Marriage Registry) was open in both the morning and the afternoon on Saturdays. According to Table 9 in paragraph 3.3 of the Audit Report, for the four registries other than City Hall Marriage Registry, the utilization rates ranged from 73% to 98% on Saturdays during the period. According to paragraph 3.7(a) of the Audit Report, you have agreed to explore the feasibility of increasing marriage ceremony quotas on a demand-driven basis, e.g. on festive dates and/or auspicious dates (weekdays or Saturdays). What is the progress?

**A19** Having studied the usage of Marriage Registries and pattern of marriage ceremony over the past few years as well as customs and trend regarding wedding based on online information, we managed to identify some dates (mainly some festive dates and auspicious dates) with a consistent pattern of high demand for marriage ceremony services including Valentine's Day (14 February), "520 I Love You" (20 May), Singles Day (11 November), Christmas Eve (24 December), etc.. As such dates may vary from year to year due to the social trend or the Chinese Almanac (e.g. 02-02-2022 may be very popular but may not for 02-02-2023), regular review will be conducted half-yearly to identify those dates with high demand in the coming year and updated adjustment of quotas will be made accordingly.

As a pilot scheme to be commenced this year, marriage ceremony quotas of Tsim Sha Tsui Marriage Registry and Sha Tin Marriage Registry will be increased on coming Singles Day (i.e. 11-11-2021) and Christmas Eve (i.e. 24-12-2021). Having considered that the legal requirement

of marriage celebrated by the Registrar shall take place between 9 a.m. and 7 p.m. pursuant to section 21(3) of Marriage Ordinance, Cap 181 and due regard to the arrangements of marrying parties on the wedding day, it is initially planned to increase 4 – 5 more quotas (representing an increase of 11 to 13%) at each of the two registries, making a total of 8 – 10 extra time slots in the afternoon on these selected dates. ImmD will continue to monitor the service demand and make appropriate adjustment to meet the service demand.

**Q20 According to paragraph 3.7(b) of the Audit Report, you have agreed to consider setting up a performance pledge for the search of absence of marriage record. What is the progress?**

**A20** The performance pledge for the search of absence of marriage record has been set up in accordance with the standard processing time of seven working days. The Performance Pledge Booklet 2021 and the information on the homepage of ImmD will be updated in June 2021 accordingly.

**Q21 According to paragraph 3.11 of the Audit Report, 34 persons on ImmD's list of Civil Celebrants of Marriages ("CCMs") were neither solicitors with practising certificates nor notaries public and hence did not meet the eligibility criteria for a CCM as stated in the Marriage Ordinance (Cap. 181). Can you explain why? Please clarify whether the legality of a marriage will be affected by the eligibility of a CCM.**

**A21** In accordance with section 5A of the Marriage Ordinance (Cap. 181) ("MO"), the Registrar of Marriages may appoint qualified persons as CCMs. The 34 CCMs concerned were satisfied to have fulfilled the prescribed criteria in Schedule 4 of the MO at the time when they were appointed between 2016 and 2019.

However, after appointment, the 34 CCMs did not renew their practicing certificates upon expiry and failed their statutory obligations to notify the Registrar of Marriage of such in accordance with section 5H(2) of the MO, which stipulates that if a CCM ceases to meet the prescribed criteria, he/she must notify the Registrar of Marriage in writing within 14 days. Pursuant to section 31A(3) of the MO, any CCM who

contravenes section 5H(2) without reasonable excuse shall be guilty of an offence and shall be liable to a fine at level 3, which is HK\$10,000.

To avoid recurrence of similar cases, liaison had been made with the Hong Kong Society of Notaries and the Law Society of Hong Kong about the updated mechanism to ImmD once their members no longer hold valid practising certificates. As a stop-gap measure, we have already implemented measure to monitor the eligibility of the appointed CCMs by checking against the relevant information (i.e. list of members with practicing certificates promulgated by the Law Society of Hong Kong) posted in the websites of the Law Society of Hong Kong and the Hong Kong Society of Notaries (i.e. list of practising members promulgated by the Hong Kong Society of Notaries) against our latest list of CCMs on daily basis. When there is any irregularity revealed, we will verify the concerned parties immediately and review if the appointment of concerned CCM be affected. Meanwhile, appropriate action may consider to be taken on those CCMs who have failed their statutory obligations to notify us of the change.

Nevertheless, the validity of marriage solemnised by those CCMs will not be affected by the CCMs' eligibility for appointment in accordance with section 5F of the MO<sup>1</sup>.

**Q22 According to paragraph 3.13 of the Audit Report, 291 (17%) of 1 756 CCMs who were on the list of ImmD during the period from January 2015 to November 2020 were not active and had not provided any marriage solemnization service for some five years from January 2016 to October 2020. According to paragraph 3.15(e) of the Audit Report, ImmD will consider inviting dormant**

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<sup>1</sup> By virtue of section 5F of the MO, without prejudice to the generality of section 27(3), the validity of a marriage celebrated by a CCM shall not be affected by—

- (a) any irregularity in the appointment of the CCM by the Registrar;
- (b) the fact that the CCM was not—
  - (i) eligible for appointment at the time of his appointment; or
  - (ii) eligible for having his appointment renewed at the time of renewal of his appointment, as may be appropriate; or
- (c) the fact that the appointment of the CCM was, at the time of the celebration, liable to be cancelled or suspended.

In accordance with section 27(3), no marriage shall, after celebration, be deemed invalid by reason that any provision of the MO, other than section 27(1) or 27(2), has not been complied with.



**CCMs by phases to attend refresher training course on a voluntary basis. What is the progress? Given that refresher training is undertaken only on a voluntary basis, do you think that it is effective?**

**A22** Paragraph 3 of Schedule 4 to the Marriage Ordinance (“MO”) requires CCM to have completed the training organised for the purposes of the MO as the Registrar of Marriages may specify. In this regard, ImmD will arrange all applicants applying for appointment as a CCM to attend a training course. The content of training course covers the procedures of giving of Notice of Intended Marriage and celebration of marriage, potential offences and penalties relevant to marriage registration, identification of forged documents of identity, etc. Meanwhile, a "Guidance Notes for Civil Celebrants of Marriages" which provides practical guidelines and workflow for CCMs to discharge their duties and a “Code of Practice for Civil Celebrants of Marriages” which provides practical guidance in respect of the professional conduct of CCMs will be given to the applicants for reference during the training course. After the training, the Registrar would publish the appointment of CCM by notice in the Gazette and effect the appointment by giving the CCM written notice specifying the appointment period for five years by virtue of sections 5A(4)(a) and 5A(4)(c) of the MO respectively.

In light of the Audit’s comment, ImmD will enhance the training to those CCMs who were not active and had not provided any marriage solemnization service for some five years upon their applications for renewal of appointment. Meanwhile, ImmD will conduct records check on those renewal applications to see if the applicants have provided any marriage solemnisation service in the last term. If negative, the CCM will be arranged to attend a refresher course and provided with a set of the "Guidance Notes for Civil Celebrants of Marriages" again for reference. The content of the refresher course covers the procedures of giving of Notice of Intended Marriage and celebration of marriage, potential offences and penalties relevant to marriage registration as well as cases sharing. The first refresher course will be conducted in August 2021.

**Q23** According to paragraphs 3.14(a) and 3.15 of the Audit Report, you have agreed to take measures to ensure that persons included in ImmD's list of CCMs meet the eligibility criteria mentioned in the Marriage Ordinance. What measures will you take?

**A23** According to section 5H(2) of the Marriage Ordinance (MO), if a CCM ceases to meet any of the prescribed criteria specified in Schedule 4 to the MO, he/she must notify the Registrar of Marriage in writing within 14 days of such cessation. Pursuant to section 31A(3) of the MO, any CCM who contravenes section 5H(2) without reasonable excuse shall be guilty of an offence and shall be liable to a fine at level 3, which is HK\$10,000.

With a view to reminding the CCMs of the statutory requirement, ImmD has revised the training materials for CCMs to include the requirement in the training materials and will emphasize the requirement again during the training course. In addition, we have reviewed the departmental homepage and included the legal requirement since 17 May 2021. The "How to Apply - Becoming a Civil Celebrant of Marriages" pamphlet has also been reviewed and revised to highlight the legal requirement. As a further reminder to the CCMs, we have enhanced the notification letter to CCM for collecting renewal appointment certificate by adding the legal requirement as a reminder again.

To avoid recurrence of similar cases, liaison had been made with the Hong Kong Society of Notaries and the Law Society of Hong Kong about the updated mechanism to ImmD once their members no longer hold valid practising certificates. As a stop-gap measure, we have already implemented measure to monitor the eligibility of the appointed CCMs by checking against the relevant information (i.e. list of members with practicing certificates promulgated by the Law Society of Hong Kong) posted in the websites of the Law Society of Hong Kong and the Hong Kong Society of Notaries (i.e. list of practising members promulgated by the Hong Kong Society of Notaries) against our latest list of CCMs on daily basis. When there is any irregularity revealed, we will verify the concerned parties immediately and review if the appointment of concerned CCM be affected. Meanwhile, appropriate

action may consider to be taken on those CCMs who have failed their statutory obligations to notify us of the change.

If a CCM is suspected to have committed an offence under the MO, such as failing the statutory requirement to notify the Registrar of Marriage of his/her cessation to meet prescribed criteria as a CCM under section 5H(2), case will be subject to further investigation and prosecution.

**Q24 According to paragraphs 3.14(b) and 3.15(d) of the Audit Report, you have agreed to specify the training requirements of CCMs in ImmD's information pamphlet but not in the Code of Practice. Can you explain why? Have you revised the information pamphlet to include such training requirements?**

**A24** As regards the Audit's comment at paragraphs 3.14(b), it is recommended to specify the training requirements of CCMs in the Code of Practice or ImmD's information pamphlet "How to apply – Civil Celebrants of Marriages." According to the Marriage Ordinance (MO), it is a prerequisite for all the applicants applying to be appointed as a CCM to complete the training organised by the Registrar. After review, the information pamphlet, which aims at notifying applicants of (i) the application procedure such as the way of form submission and fees required; (ii) the requisite requirements for appointment as CCM; and (iii) regulations to be followed after being appointed and relevant penalties, is considered a more appropriate platform in disseminating pre-appointment information pertaining to training requirements than the Code of Practice, which seeks to disseminate post-appointment practical guide in relation to the CCM's professional conduct in carrying out CCM duties including compliance with the MO and other laws, upholding the standard of service, ensuring due solemnity of marriage, etc..

The statutory requirement for completion of a training course organised by the Registrar of Marriages is included in paragraph 2 under sub-title "Training" of the information pamphlet. The training requirements of CCMs will be updated in the information pamphlet in June 2021.

**Q25** According to paragraph 3.19 of the Audit Report, the backlog of outstanding suspected bogus marriage cases increased from 2 634 cases in 2016 to 3 240 cases in 2019. According to paragraph 3.17 of the Audit Report, in order to strengthen the manpower of the Special Task Force Sub-sections ("STF"), 10 new posts were created in 2019 under STF and 21 posts responsible for handling suspected bogus marriage cases in the Outside Investigation Section were redeployed to STF, which was expected to increase the output by 25%. However, according to paragraph 3.21 of the Audit Report, the number of outstanding cases was only reduced by 631 from 3 240 cases in 2019 to 2 609 cases in 2020, largely owing to the reduction in the number of new cases by 919 from 1 417 in 2019 to 498 in 2020. Do you agree that the strengthening of manpower in 2019 to clear the backlog might not be entirely effective? How long will it take to clear the remaining backlog? What are the major factors contributing to the backlog and further measures that can be taken by ImmD to expedite the handling of outstanding cases?

**A25** The Immigration Department emphasises that the nature of bogus marriage cases is different from investigation cases involving other immigration offences. There is no offence as "bogus marriages" under the prevailing legislation of Hong Kong, any person who makes use of bogus marriages or facilitates other persons to obtain the requisite documents by aiding them in contracting bogus marriages for the purpose of entering Hong Kong shall be guilty of an offence, such as conspiracy to defraud, making false representation to Immigration officers, etc. Bogus marriage might not involve any victims but only two accomplices committing the crime for their mutual interest. Also, bogus marriage cases involve at least one non-Hong Kong resident who normally resides outside Hong Kong. These cases could not be processed further unless the suspects are intercepted for enquiry, resulting in backlog cases.

In view of the aforesaid difficulties and the uniqueness of each bogus marriage case, investigators need to put more effort to verify the genuineness of a marriage between the parties involved by collecting evidence through various channels, including departmental record check such as the couples co-movement records; conducting spot checks by home visits to ascertain cohabitation evidence in the home settings such

as the couples daily necessities and photos taken together. Investigators may also need to collect circumstantial evidence and statements such as witness statement or testimonies by the neighbours, family members and other persons involved. Separate interviews with the persons involved will also be conducted. As legal advice should be sought in light of complex legal issues involved in these cases, the Immigration Department has to conduct careful analyses and in-depth investigation, and the time required for conducting investigation varies from case to case depending on its complexity. The time required for investigation of suspected bogus marriage cases involving bogus marriage syndicates or multiple suspects will be relatively longer.

The Immigration Department centralised handling of all suspected bogus marriage cases to Special Task Force Sub-sections (STF) since the reorganisation of Investigation Sub-division in June 2019. In this connection, 10 new posts had been created and 21 existing posts under Outside Investigation Section designated to handle suspected bogus marriage cases were redeployed to STF. The total establishment of STF was increased to 53 posts. After the creation of 10 new posts, the manpower designated to handle suspected bogus marriage cases was increased by 23%.

In the first half of 2019 prior to the reorganisation, the Immigration Department arrested 491 suspects and processed 66 curtailed cases. In the second half of 2019 after the reorganisation, the Immigration Department arrested 604 suspects and processed 102 curtailed cases. It can be seen that the Immigration Department's ability to handle cases was significantly improved as the number of arrestees and case curtailment was respectively increased by around 23% and 55%.

In respect of the 2 237 backlog cases of STF as of December 2020, as of April 2021, the number of backlog cases was reduced to 1 798 by STF, representing a decrease of around 20%. With the current establishment of 10 investigation teams and assuming each can handle around 130 cases per annum, it is estimated that around 1.4 year is required to process the abovementioned backlog cases. Under the COVID-19 epidemic effects, there is a reduction in the number of new cases and the Immigration Department will make good use of the opportunity to reduce the number of backlog cases as soon as possible.

Since 2020, the majority of control points exercised special immigration control during the COVID-19 epidemic, resulting in a decrease of interception of suspects at control points. In support of the government's anti-epidemic policy, staff were arranged to be work-from-home on a rotary basis as such the handling of backlog cases was affected.

Furthermore, in processing One-way Permit applications and in case the husband-and-wife relationship is in doubt, the Mainland authorities will pass the particulars of the applicants and their spouses in Hong Kong to Immigration Department for investigation. In 2017-18, there was a significant surge in the number of new cases to be handled due to the sudden influx of over 800 referrals.

The Immigration Department has always placed importance in trimming down case backlog. To expedite the processing of outstanding cases, the Immigration Department will gainfully redeploy manpower resources to form a special team to identify those outstanding cases that require expeditious investigation. The special team will re-assess the 1 798 outstanding backlog cases as at 30 April 2021 and categorise them, in eight weeks, based on their complexity. Cases of lower complexity, such as cases without syndicate elements or multiple marriages will be accorded higher priority in the clearance of backlog. The Immigration Department will strategically deploy available resources to effectively resolve the backlog situation.

Meanwhile, the Immigration Department would actively consider including new features in the Enforcement Case Processing Systems (ENCAPS) under the next generation of Application and Investigation Easy Systems (APPLIES-2), to facilitate the investigation teams and Sub-section Heads in case investigation and monitoring the progress of handling of backlog cases. The new features include strengthening the record check function against the suspects; automatic comparison against the movement record of the suspects; alerts to investigators on the update suspect's record; regular reminders for reviewing the investigation progress. Relevant guidelines would be re-circulated regularly to remind all investigators to follow the stipulated procedures, and ensure that cases could be handled in a timely manner.

**Q26 According to paragraph 3.20 of the Audit Report, in 1 501 (67%) of the 2 237 outstanding suspected bogus marriage cases, the suspects were pending interception after all possible means to locate them had been exhausted. Is it practicable for ImmD to apply to the court for warrants of arrest whereby the police can help locate the suspects in appropriate cases? If no, why not; has ImmD explored other more effective ways to locate the suspects?**

**A26** The application for a warrant of arrest to the magistrate is set at a very high threshold. The Immigration Department has to furnish sufficient evidence to satisfy the magistrate that the suspects had committed bogus marriage related offence(s). Section 72 of Magistrates Ordinance, Cap. 227 of the laws of Hong Kong stipulates that in every case where a complaint is made to or an information laid before a magistrate alleging the commission of any indictable offence then, if the accused is not then in custody, it shall be lawful for the magistrate to issue his warrant after the complaint or information is supported by evidence on oath and to apprehend the accused to cause him to be brought before a magistrate to answer to the complaint or information and to be further dealt with according to law. Under normal circumstances, it is hardly possible for investigators to provide such information to the magistrate before enquiry on suspects or related investigation procedures are made. In view of the above, it may be practically difficult for the Immigration Department to meet such threshold to apply for a warrant of arrest from the court.

In fact, the Immigration Department always spares no effort to combat bogus marriages. During the investigation into suspected bogus marriage cases, investigators will verify the genuineness of a marriage between the parties involved by collecting evidence through various channels, including departmental record check such as the couples co-movement records; conducting spot checks by home visits to ascertain cohabitation evidence in the home settings such as the couples daily necessities and photos taken together. Investigators will also collect circumstantial evidence and statements such as witness statement or testimonies by the neighbours, family members and other persons involved. Separate interviews with the persons involved will also be conducted. If there is reason to suspect that the person involved has committed an offence under Immigration Ordinance or Immigration

Service Ordinance, the Immigration Department investigators may, without warrant, arrest the suspect.

Among the 2 237 outstanding cases mentioned in the Audit Report, suspects of the 1 501 cases were pending interception after all possible means to locate them had been exhausted. As 989 of the 1 501 suspects were outside Hong Kong, the Immigration Department had included their personal particulars into computer systems with a view to intercepting them when they come to Hong Kong. This is considered to be the most effective measure to intercept suspects currently outside Hong Kong. With a view to intercepting the remaining 512 suspects, the Immigration Department had also included their personal particulars into computer systems. They will be intercepted upon using immigration facilities.

Moreover, instead of applying to the court for warrants of arrest, the Immigration Department would take more different measures, which had been adopted in other sophisticated cases, to improve the investigation work on suspected BM cases, including i) to request for up-to-date contact or residence information from other government departments or public organisations, such as Social Welfare Department, Water Supplies Department, Mandatory Provident Fund Schemes Authority, public hospitals, Law Enforcement Agencies, etc.; ii) understanding suspects' pattern of habits and identifying the whereabouts of them by request for information from private companies, such as telecom service provider, Octopus Cards Limited, etc.; and iii) enlisting the assistance from Police to include the suspects as wanted persons in order to intercept them and conduct investigation at the earliest opportunity.

**Q27** According to paragraph 3.24(b)(ii) of the Audit Report, you have said that for operational needs, case officers had to keep the curtailed case files (albeit already endorsed by the Section Head as curtailed cases) pending interception of the suspects. According to paragraphs 3.32(c) and 3.33(c) of the Audit Report, you have agreed to remind case officers to send finalized case files to the Investigation Central Administration Section for updating. Have you issued instructions on timely record updating of curtailed cases to facilitate selection of cases for spot checking?



**A27** The curtailment of outstanding cases has been adopted in response to the Audit Review by the Audit Commission in 2011 as an administrative measure to trim down backlog of outstanding cases. According to the mechanism, Section Heads would firstly review outstanding cases and endorse curtailment for the time being for the cases (curtailed cases) if cases fall within a certain set of criteria. Investigation process will be reactivated once the suspects of curtailed cases are intercepted. In this regard, curtailed cases are essentially incomplete cases. For curtailed cases, there remain a possibility for suspect interception at any time when the suspects use immigration facilities, case officers therefore need to stand-ready for reactivation of investigation. As a result, it is considered to be necessary for case files to be kept by the case officers for prompt follow-up action. It is also inevitable that the curtailed case files could not be sent to the Investigation Central Administration Section for filing at an earlier time.

The spot check mechanism conducted by the Assistant Principal Immigration Officer of the Investigation Sub-division [APIO(I)] was established in 2003 for the purpose of check-and-balance for cases that have been endorsed no-further-action (NFA) by respective Section Heads (Section Heads may endorse NFA on cases that no further investigation work is deemed required e.g. the suspect has passed away). According to the existing mechanism, APIO(I) would spot check two concluded NFA case files from each investigation section per week randomly selected from those sent to the Investigation Central Administration Section (ICAS) for filing in the preceding week. The number of selected case files depends on the total number of concluded NFA case files sent to ICAS for filing in the preceding week. Nonetheless, as NFA cases and curtailed cases shared the same result code “NF” for result updating before system enhancement, ICAS would also select the curtailed case files for spot checks.

In response to the Audit Recommendation, the Immigration Department has completed system enhancement by introducing a new result code to distinguish curtailed cases from NFA cases. The Immigration Department has also issued guidelines for handling cases of both nature. With the enhanced measures, the ICAS will be able to select appropriate NFA cases for spot check. Meanwhile, investigators have also been

reminded of the importance of sending the completed case files to the ICAS for timely result updating and filing.

**Q28** According to paragraphs 3.23, 3.24(d) and 3.30 of the Audit Report, while the Assistant Principal Immigration Officer (Head) of the Investigation Sub-division has to spot check two samples per week from no-further-action cases and curtailed cases from the preceding week randomly selected by the Investigation Central Administration Section (after record updating), only 18 cases were selected for spot checking by the Assistant Principal Immigration Officer in 2019, comprising 8 no-further-action cases (i.e. no further investigation work is required) and 10 curtailed cases (i.e. cases which meet the curtailment criteria for taking no further action for the time being). Do you agree that more checks should have been carried out during the period? Please provide the respective numbers of no-further-action cases and curtailed cases selected for spot checking in 2020.

**A28** The Immigration Department reiterated that APIO(I) strictly adhered to the established mechanism to conduct spot checks in order to maintain check-and-balance for no-further-action (NFA) cases. According to the existing mechanism, APIO(I) would spot check two concluded NFA case files from six investigation sections per week randomly selected from those sent to the Investigation Central Administration Section (ICAS) for filing in the preceding week. The number of selected case files depends on the total number of concluded NFA case files sent to ICAS for filing in the preceding week. Nonetheless, as NFA cases and curtailed cases shared the same result code “NF” for result updating before system enhancement, ICAS would also select the curtailed case files for spot checks. As mentioned in the Audit Report, eight cases among the 18 cases of STF spot checked by APIO(I) are NFA cases. These eight cases represents 42% of the 19 NFA cases of STF in 2019.

In 2020, APIO(I) conducted spot checks on 17 NFA cases and eight curtailed cases of STF. For NFA cases of STF, the 17 cases being spot checked represents 52% of the 33 NFA cases endorsed in 2020.

**Q29** According to paragraphs 3.29 and 3.30 of the Audit Report, Immigration Department's guidelines require the three Senior Immigration Officers of STF to conduct supervisory checks on the work of the officers in their investigation teams as frequently as possible, in particular those prolonged field operations. However, during the 26-week period from 1 July to 29 December 2019, only 19 supervisory checks were conducted on the 10 teams (i.e. an average of only two checks on each team over the 26-week period) under the command of the three officers. According to paragraph 3.33(e) of the Audit Report, you have said that Immigration Department will re-circulate the relevant guideline to remind and ensure all Sub-section Heads to conduct supervisory checks of field operation as frequently as possible and to make proper record of the visits. Has improvement been made regarding the matter? Please provide the number of supervisory checks conducted each month for each team in 2020.

**A29** In response to the Audit Commission's recommendations, the relevant guidelines have been re-circulated to remind the Sub-section Heads of Special Task Force Sub-sections to conduct supervisory checks on their investigation teams and to ensure those checks are properly recorded. Not only sporadic supervisory checks on field operations are performed, the Sub-section Heads also conduct weekly spot checks on sign-on registers (160 spot checks conducted in Jan – Apr 2021) and team diaries (160 spot checks conducted in Jan – Apr 2021), bi-weekly spot checks on exhibit registers (80 spot checks conducted in Jan – Apr 2021), monthly spot checks on teams' case registers (40 spot checks conducted in Jan – Apr 2021) and periodic spot checks on official notebooks (40 spot checks conducted in Jan – Apr 2021), occurrence books (40 spot checks conducted in Jan – Apr 2021), operation equipment (40 spot checks conducted in Jan – Apr 2021) to ensure investigations are in strict compliance with appropriate procedures.

The majority of control points exercised special immigration control during the COVID-19 epidemic in 2020, resulting in a decrease of interception of suspects from control points. In support of the government's anti-epidemic policy, staff were arranged to be work-from-home on a rotary basis, as such field operations were inevitably reduced in numbers. Nonetheless, during the 52-week period in 2020,

there was a total of 44 supervisory checks on field operations conducted by the three Sub-section Heads on the 10 investigation teams (i.e. an average of 4.4 checks on each team over the period).

During the 16-week period from 1 January 2021 to 30 April 2021, there was a total of 20 supervisory checks on field operations conducted by the three Sub-section Heads on the 10 investigation teams (i.e. an average of 2 checks on each team over the period), representing an increase of 66.7% compared to the same 16-week period in 2020 (12 supervisory checks on field operations were conducted).

**Q30** According to paragraph 3.31 of the Audit Report, Audit examination of a suspected bogus marriage case (cum suspected bigamy) referred to Immigration Department for investigation by a Mainland authority in November 2012 revealed that the actions taken by STF to locate a suspect were not entirely effective: (i) five home visits were conducted by STF in 2013 for locating the suspect but in vain; and (ii) although STF had successfully contacted the suspect by phone three times in 2013 and requested him to attend an enquiry, he failed to attend the scheduled interview on two occasions and declined to show up on the remaining occasion. It was not until early 2019 that Immigration Department conducted a case update and found that the suspect had already passed away in January 2019. In paragraph 3.33(f), you have said that Immigration Department would further review and draw lessons from this case to look for room for improvement in relation to investigation into suspected bogus marriage cases in future. What measures have you identified to improve the investigation work on suspected bogus marriage cases?

**A30** The Immigration Department has been adopting all practicable means to investigate bogus marriage cases by conducting in-depth investigation on persons involved, collecting circumstantial evidence through various sources and different channels and effecting arrest in a timely manner. Regarding Case 1, five surprised home visits were conducted in 2013 for locating the suspect but in vain. Although the suspect had successfully been contacted by phone three times in 2013 and was requested to attend an enquiry, he failed to attend the scheduled interview on two occasions and declined to show up on the remaining one. Apparently, the suspect evaded the investigation deliberately.

As a matter of fact, the Immigration Department would formulate strategies to trace suspects in accordance with their personal background and the circumstances of each case. The existing measures are effective and most suspects within Hong Kong could be successfully intercepted. Learning from the experience of Case 1, the Immigration Department would take more different measures, which had been adopted in other sophisticated cases, to improve the investigation work on suspected BM cases, including i) to request for up-to-date contact or residence information from other government departments or public organisations, such as Social Welfare Department, Water Supplies Department, Mandatory Provident Fund Schemes Authority, public hospitals, Law Enforcement Agencies, etc.; ii) understanding suspects' pattern of habits and identifying the whereabouts of them by request for information from private companies, such as telecom service provider, Octopus Cards Limited, etc.; and iii) enlisting the assistance from Police to include the suspects as wanted persons in order to intercept them and conduct investigation at the earliest opportunity.

**Q31 According to paragraphs 3.32(a) and 3.33(a) of the Audit Report, you have agreed to expedite actions to clear the backlog of suspected bogus marriage cases, focusing on cases which have remained outstanding for a long time. What is the progress?**

**A31** The Immigration Department has always placed importance in trimming down case backlog. As at 30 April 2021, the 2 237 backlog cases mentioned in paragraph 3.19 of the Audit Report was reduced to 1 798, representing a decrease of around 20%. To expedite the processing of outstanding cases, the Immigration Department will gainfully redeploy manpower resources to form a special team to identify those outstanding cases that require expeditious investigation. The special team will reassess the 1 798 outstanding backlog cases and categorise them, in eight weeks, based on their complexity. Cases of lower complexity, such as cases without syndicate elements or multiple marriages will be accorded higher priority in the clearance of backlog. The Immigration Department will strategically deploy available resources to effectively resolve the backlog situation.

**Q32 According to paragraphs 3.33(b) and (d) of the Audit Report, you have said that ImmD would step up checking of suspected bogus marriage cases and issue written guidelines on setting a time target for opening of case files for normal cases. What actions have you taken in this regard?**

**A32** In response to paragraph 3.33(b), the Immigration Department has completed system enhancement by introducing a new result code to distinguish curtailed cases from NFA cases. The Immigration Department has also issued guidelines for handling cases of both nature. With the enhanced measures, the ICAS will be able to select appropriate NFA cases for spot check. Meanwhile, investigators have also been reminded of the importance of sending the completed case files to the ICAS for timely result updating and filing.

In response to paragraph 3.33(d), the Immigration Department has in place guidelines for case management. For priority cases, case officers shall open case files within 2 weeks after assignment to ensure timely follow-up on the cases. For normal cases, case files would be opened in chronological order according to their date of receipt of the referral. A new guideline has been issued to further enhance the case management mechanism. For priority cases, case officers shall commence investigation, followed by opening case files, within five working days after assignment of the bogus marriage case. For normal cases, case officers shall commence investigation, followed by opening case files, within ten working days after assignment of the bogus marriage case.

#### **Part 4: Implementation of next generation of Application and Investigation Easy Systems**

**Q33 According to paragraphs 4.4 and 4.5 of the Audit Report, Phase 1 of APPLIES-2 (covering the existing functions of the first generation of Application and Investigation Easy Systems) was planned to be rolled out by December 2021, which was only about two months before the expiry of the existing maintenance contract in February 2022. As of January 2021, system analysis and design stage of Phase 1 was one month behind schedule. What is the latest implementation progress of APPLIES-2?**

**A33** According to the Project Management Plan of APPLIES-2, the stages of System Development, Testing and User Acceptance Test of Phase 1 should be completed by November 2021. Meanwhile, Phase 1 is actively underway and the progress is satisfactory. As at 30 April 2021, no major risk or issue concerning the project was identified.

**Q34** According to paragraph 4.9 of the Audit Report, since November 2019 (date of awarding the two contracts for installation and supply of APPLIES-2 (Contracts A and B)) and up to February 2021, the Project Steering Committee and the Working Group had not held regular meetings (either by on-site meeting or video conferencing) to monitor the project progress. Do you agree that this is less than satisfactory?

**A34** From January 2020 to February 2021, Hong Kong experienced four waves of COVID-19 infections. To prevent the spread of virus, the government has tightened social distancing measures and implemented work-from-home arrangements for government employees during the periods. As a result, meetings with the Project Steering Committee (PSC) and the Working Group (WG) were impeded. Regarding the adoption of video conferencing, although there were some commonly-used video conferencing solutions in the market, they were mostly riding on public cloud, the data would be sent to public cloud servers which might not be hosted in Hong Kong. Since the APPLIES-2 project involved classified matters, with due consideration on the security and protection of classified information, project highlight reports and classified emails were issued to keep members of PSC and WG abreast of the updated project progress and seek their timely comments and directives. This alternative course of action has in fact served the purpose.

**Q35** According to paragraph 4.15(a) of the Audit Report, you have said that ImmD would consider arranging video conferencing in lieu of on-site meeting for future meetings of the Project Steering Committee and Working Group where appropriate. Have you arranged any so far?

- A35** Having considered the recent COVID-19 epidemic situation in Hong Kong, ImmD is preparing to conduct meeting with the Project Steering Committee and Working Group between late May and June 2021.
- Q36** According to paragraph 4.10(a) of the Audit Report, the approved project estimate for the APPLIES-2 project included an estimated sum of \$342.6 million for all hardware, software and implementation services. According to paragraphs 4.10(c) and 4.11 of the Audit Report, the pre-tender estimate for Contracts A and B was \$365.4 million, which was substantially greater than the accepted tender prices totalling \$272.7 million. Given the significant variances between the estimated and actual tender prices, how will you improve the cost estimation in future?
- A36** The market researches as mentioned in paragraph 4.10(c) and 4.11 of the Audit Report refer to the two market researches conducted in 2016 and 2018 respectively. In 2019, Audit Commission conducted a review to examine ImmD's work on the procurement of goods and services. The identified areas for improvement in working out realistic pre-tender estimates (PTEs) in tender exercises of Information Communications Technology projects were mentioned in Report No.73 of the Director of Audit on 28 October 2019. Subsequently, ImmD issued guidelines in accordance with the recommendations including the market condition and economy of scale in determining the PTEs, follow up with major vendors to obtain required information for procurement of Information Technology equipment and services to improve the cost estimation for the tender exercise in all coming projects. ImmD will ensure the close compliance of such guidelines.
- Q37** According to paragraph 4.12 of the Audit Report, as of March 2021, the total cashflow requirement of the APPLIES-2 project was only \$372.2 million with an estimated unspent fund balance of \$80.8 million. However, in the annual returns on the forecast expenditure of the APPLIES-2 project submitted by ImmD to the Security Bureau and the Financial Services and the Treasury Bureau from 2018 to 2020, the cashflow requirement in each of the submissions was \$453 million (which was the same as the approved project estimate) with no unspent fund balance. Why? Did you critically review the latest cashflow requirement of the APPLIES-2 project



**when preparing the annual returns on forecast expenditure from 2018 to 2020?**

**A37** The APPLIES-2 project is progressing actively and for the full implementation of the Systems, other than those awarded main contracts, more planned procurements for hardware, software and services are being arranged under the procurement schedule. According to the actual values of awarded contracts and known expenditures as of March 2021, the cashflow requirement was \$372.2 million, whilst the unspent fund balance of \$80.8 million includes a contingency of \$41.2 million provision.

In March 2021, ImmD had completed the latest market researches for the procurement of new system for the 24-hour “1868” hotline of the Assistance to Hong Kong Residents Unit, peripheral devices, anti-virus and application software, etc. The estimated costs of all the upcoming procurements sum up to around \$80 million. Subject to the actual amount of the contract sum, the actual unspent fund might not be a significant portion. Therefore, ImmD has maintained the same value in the annual returns on the estimated case flow requirements for the APPLIES-2 project submitted to the Security Bureau and the Financial Services and the Treasury Bureau.

**Q38** **According to paragraph 4.15(c) of the Audit Report, you have said that ImmD will report to the Financial Services and the Treasury Bureau if any surplus fund in excess of project requirement of APPLIES-2 comes to notice. Have you identified any surplus fund so far?**

**A38** No surplus fund is identified thus far. For details, please refer to the reply for Q37.