

**REPORT OF THE
PUBLIC ACCOUNTS COMMITTEE
ON
THE REPORTS OF THE DIRECTOR OF AUDIT
ON
THE ACCOUNTS OF THE GOVERNMENT OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION
FOR THE YEAR ENDED
31 MARCH 2013
AND THE RESULTS OF
VALUE FOR MONEY AUDITS (Report No. 61)**

February 2014

P.A.C. Report No. 61

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Introduction

The Establishment of the Committee The Public Accounts Committee is established under Rule 72 of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region, a copy of which is attached in *Appendix 1* to this Report.

2. **Membership of the Committee** The following Members are appointed by the President under Rule 72(3) of the Rules of Procedure to serve on the Committee:

Chairman : Hon Abraham SHEK Lai-him, GBS, JP

Deputy Chairman : Hon Paul TSE Wai-chun, JP

Members : Hon CHAN Hak-kan, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man
Hon NG Leung-sing, SBS, JP
Hon Kenneth LEUNG

Clerk : Mary SO

Legal Adviser : Stephen LAM

Procedure

The Committee's Procedure The practice and procedure, as determined by the Committee in accordance with Rule 72 of the Rules of Procedure, are as follows:

- (a) the public officers called before the Committee in accordance with Rule 72 of the Rules of Procedure, shall normally be the Controlling Officers of the Heads of Revenue or Expenditure to which the Director of Audit has referred in his Report except where the matter under consideration affects more than one such Head or involves a question of policy or of principle in which case the relevant Director of Bureau of the Government or other appropriate officers shall be called. Appearance before the Committee shall be a personal responsibility of the public officer called and whilst he may be accompanied by members of his staff to assist him with points of detail, the responsibility for the information or the production of records or documents required by the Committee shall rest with him alone;
- (b) where any matter referred to in the Director of Audit's Report on the accounts of the Government relates to the affairs of an organisation subvented by the Government, the person normally required to appear before the Committee shall be the Controlling Officer of the vote from which the relevant subvention has been paid, but the Committee shall not preclude the calling of a representative of the subvented body concerned where it is considered that such a representative could assist the Committee in its deliberations;
- (c) the Director of Audit and the Secretary for Financial Services and the Treasury shall be called upon to assist the Committee when Controlling Officers or other persons are providing information or explanations to the Committee;
- (d) the Committee shall take evidence from any parties outside the civil service and the subvented sector before making reference to them in a report;
- (e) the Committee shall not normally make recommendations on a case on the basis solely of the Director of Audit's presentation;
- (f) the Committee shall not allow written submissions from Controlling Officers other than as an adjunct to their personal appearance before the Committee; and

Procedure

- (g) the Committee shall hold informal consultations with the Director of Audit from time to time, so that the Committee could suggest fruitful areas for value for money study by the Director of Audit.

2. **Confidentiality undertaking by members of the Committee** To enhance the integrity of the Committee and its work, members of the Public Accounts Committee have signed a confidentiality undertaking. Members agree that, in relation to the consideration of the Director of Audit's reports, they will not disclose any matter relating to the proceedings of the Committee that is classified as confidential, which shall include any evidence or documents presented to the Committee, and any information on discussions or deliberations at its meetings, other than at meetings held in public. Members also agree to take the necessary steps to prevent disclosure of such matter either before or after the Committee presents its report to the Council, unless the confidential classification has been removed by the Committee.

3. A copy of the Confidentiality Undertakings signed by members of the Committee has been uploaded onto the Legislative Council website.

4. **The Committee's Report** This Report by the Public Accounts Committee corresponds with the Reports of the Director of Audit on:

- the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2013; and
- the results of value for money audits (Report No. 61),

which were tabled in the Legislative Council on 13 November 2013. Value for money audits are conducted in accordance with the guidelines and procedures set out in the Paper on Scope of Government Audit in the Hong Kong Special Administrative Region - 'Value for Money Audits' which was tabled in the Provisional Legislative Council on 11 February 1998. A copy of the Paper is attached in **Appendix 2**.

5. In addition, this Report takes stock of the progress of the action taken by the Administration on the recommendations made in the Committee's Report Nos. 58 and 59 and offers the Committee's views on the action taken. These are detailed in Parts 3 and 4 of this Report.

Procedure

6. **The Government's Response** The Government's response to the Committee's Report is contained in the Government Minute, which comments as appropriate on the Committee's conclusions and recommendations, indicates what action the Government proposes to take to rectify any irregularities which have been brought to notice by the Committee or by the Director of Audit and, if necessary, explains why it does not intend to take action. It is the Government's stated intention that the Government Minute should be laid on the table of the Legislative Council within three months of the laying of the Report of the Committee to which it relates.

Laying of the Report Report No. 58 of the Director of Audit on the results of value for money audits was laid in the Legislative Council ("LegCo") on 18 April 2012. The Committee's Report (Report No. 58) was subsequently tabled on 4 July 2012, thereby meeting the requirement of Rule 72 of the Rules of Procedure of the LegCo that the Report be tabled within three months of the Director of Audit's Report being laid.

2. **The Government Minute** The Government Minute in response to the Committee's Report No. 58 was laid in the LegCo on 24 October 2012. A progress report on matters outstanding in the Government Minute was issued on 15 October 2013. The latest position and the Committee's further comments on these matters are set out in paragraphs 3 to 8 below.

Unlawful occupation of government land
(Chapter 2 of Part 4 of P.A.C. Report No. 58)

3. The Committee was informed that:

Publicity on prevention of unlawful occupation of government land

- the Lands Department ("Lands D") had prepared and uploaded on its website a publicity pamphlet on enforcement and prosecution actions against unlawful occupation of government land to remind the public not to occupy government land illegally;

Follow-up actions with Geotechnical Engineering Office on an individual case

- on the case involving an unauthorized platform built on government slope, a revised geotechnical assessment report was submitted in November 2012 by the consultant commissioned by the party concerned and was subsequently accepted by the Geotechnical Engineering Office of the Civil Engineering and Development Department. According to the report, the stability of the subject slope and the platform met the current engineering standards. The slope and the platform were considered to be in a stable condition, and taking strengthening measures was not necessary. A short-term tenancy for gardening use was issued to the applicant by the relevant District Lands Office in April 2013;

Revamping Land Control Information System ("LCIS") and the feasibility of using mobile devices to facilitate inspections

- in February 2012, the Lands D deployed resources to re-launch the LCIS revamping project. The feasibility study of using mobile devices to facilitate the Land Control Teams' inspections was incorporated into the works assignment brief of the tendering exercise conducted in June 2012 for the aforesaid project. Since all tender quotations received exceeded the estimated budget of the project, the Project Steering Committee of the Lands D resolved that the tendering exercise should be cancelled. In the second tendering exercise of the project, the feasibility study of using mobile devices was deleted from the works assignment brief to reduce the service cost as the original funding for the project did not cover the cost of such option. The project for revamping the LCIS commenced in April 2013 and was targeted for completion by the end of 2014. The Lands D would carry out the feasibility study of using mobile devices in a separate exercise subsequent to the implementation of the LCIS revamping project; and

Publishing the number of new and outstanding land control cases

- the Lands D had uploaded the number of new land control cases in a year and the number of outstanding land control cases at year end on its website. The information would thereafter be updated annually.

4. The Committee was informed that Lands D had completed the follow-up actions to address three of the seven audit recommendations. The four audit recommendations not yet fully implemented included:

- (a) reviewing the levels of penalty against unlawful occupation of government land;
- (b) introducing legislative provisions to the effect that a fine would be imposed for each day during which a pertinent offence (see (a) above) had continued, with reference to similar provisions under the Building Ordinance (Cap. 123);
- (c) making use of mobile devices to facilitate the Land Control Teams' inspections; and
- (d) revamping of the LCIS.

5. The Committee wishes to be kept informed of further development on the subject.

Youth Square

(Chapter 3 of Part 4 of P.A.C. Report No. 58)

6. The Committee was informed that:

Need for review and improvement in future contract and mechanism

- the Home Affairs Bureau ("HAB") was conducting a review, with the engagement of a consultant, on the Youth Square. The scope of the review covered the existing management and operation mode, the positioning, as well as the way forward of the Youth Square. In conducting the review, the consultant had taken into account the views and recommendations of the Committee and Audit, and had conducted in-depth interviews with stakeholders as well as focus group discussions. The review had been completed by the end of 2013;

Measures to improve operation and performance

- in consultation with the Youth Square Management Advisory Committee ("MAC") and the Financial Services and the Treasury Bureau, the HAB had launched two further discount offers for the hostel of the Youth Square since October 2012 which aimed at improving the hostel usage by youth organizations and youths (i.e. target users). The Management Contractor of the Youth Square had organized various attractive promotional events targeted at the youth, such as the Dancing Fest 2013, Book Crossing Festival 2013 and Volunteer Ambassador Programme. Promotional efforts had been stepped up to keep stakeholders updated of the events and information of the Youth Square through e-marketing and enhancing the Youth Square website and Facebook platform;
- improvements had been made in the usage of facilities and youth patronage at the Youth Square, in which the percentage of youth programmes had increased from 55% in 2011-2012 to 58% in 2012-2013, and the percentage of target hostel users had increased from 31% in 2011-2012 to 41% in 2012-2013;

- the consultant would review the overall rental strategy of the hostel and also evaluate the effectiveness of the above concession measures in its overall review. Subject to the outcome of the review on the Youth Square, the HAB would continue to explore means to improve the operation and performance of the Youth Square;

Planning and implementation

- the HAB had leased an area of 1 346 m² of the Youth Square (mainly rooms with low usage rate) to Hong Kong Art School. From a strategic point of view, the Administration had expected that synergy would be created through the lease as the School's activities fit in the focal theme of arts and culture to be established in the Youth Square; and
- on the composition of the membership of the MAC of the Youth Square, the HAB would continue to engage more representation from youth or youth organizations in the appointments.

7. The Committee was informed that as at end-September 2013, actions had been completed by the Administration to address seven of the 22 audit recommendations.

8. The Committee wishes to be kept informed of further development on the subject.

Laying of the Report The Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2012 and his Report No. 59 on the results of value for money audits were laid in the Legislative Council ("LegCo") on 14 November 2012. The Committee's Report (Report No. 59) was subsequently tabled on 6 February 2013, thereby meeting the requirement of Rule 72 of the Rules of Procedure of the LegCo that the Report be tabled within three months of the Director of Audit's Report being laid.

2. **The Government Minute** The Government Minute in response to the Committee's Report No. 59 was laid in the LegCo on 22 May 2013. A progress report on matters outstanding in the Government Minute was issued on 15 October 2013. The latest position and the Committee's further comments on these matters are set out in paragraphs 3 to 41 below.

Equal Opportunities Commission

(Paragraphs 3 to 5 of Part 4 of P.A.C. Report No. 59)

3. Hon Paul TSE Wai-chun declared that he was currently a Board member of the Equal Opportunities Commission ("EOC").

4. The Committee was informed that:

- the new Chairperson of the EOC had assumed office on 1 April 2013 and had been following up on the review of the composition of the management echelon of the EOC and the recruitment or otherwise of a Chief Operations Officer ("COO"); and
- the EOC expected that a decision on its management structure including whether there was a need for and, if so, the role of the COO would be made by the first quarter of 2014-2015.

5. The Committee wishes to be kept informed of further development on the subject.

Recoverability of the outstanding advances to the United Nations High Commissioner for Refugees

(Paragraphs 6 and 7 of Part 4 of P.A.C. Report No. 59)

6. The Committee was informed that the Security Bureau:
- had discussed the issue of outstanding advances with the United Nations High Commissioner for Refugees ("UNHCR") again in April 2013; and
 - had written to the Head of Hong Kong Sub-office of the UNHCR in August 2013 to reiterate the Administration's stance and register the Hong Kong community's expectation of an early recovery of the outstanding advances.
7. The Committee wishes to be kept informed of the development on the Government's recovery of the outstanding advances to the UNHCR.

Footbridge connections between five commercial buildings in the Central District

(Paragraphs 8 and 9 of Part 4 of P.A.C. Report No. 59)

8. The Committee was informed that:
- the agent of the owner of Building II had informed the Lands Department ("Lands D") in June 2013 that the owner's appointed architect was preparing the drawings for the proposed Footbridge A between Building I and Building II. The location of the proposed Footbridge A is shown in *Appendix 3*; and
 - the Lands D, the Buildings Department and the concerned departments would consider and process the building plan submission for the proposed Footbridge A upon receipt of the submission.
9. The Committee wishes to be kept informed of further development on the subject.

Small house grants in the New Territories

(Paragraphs 10 to 14 of Part 4 of P.A.C. Report No. 59)

10. The issues relating to small house grants in the New Territories were discussed in the Public Accounts Committee Report No. 39 published in February 2003. In the course of the Committee's public hearing on those issues, the then Secretary for Housing, Planning and Lands undertook in December 2002 to complete within the tenure of his office a review of the small house policy.

11. In the Government Minute laid before the LegCo in May 2013, it was mentioned that:

- the existing small house policy had been in operation for a long period of time. The relevant review would inevitably entail complex issues including legal, environment and land use planning issues which required careful examination; and
- the Administration needed to maintain dialogue with key stakeholders as well as the community at large.

12. In response to the Committee's enquiry on setting a definite timetable for completing the review of the small house policy, the Secretary for Development stated in his letter of 30 January 2014 (in *Appendix 4*) that the Administration was unable to do so due the complexity of the issues involved. Nevertheless, the Administration had made progress on various fronts. For instance, the Lands D had simplified a number of procedures of small house applications with a view to shortening the processing time.

13. The Committee urges the Administration to expedite the review of the small house policy and wishes to be kept informed of further development on the subject.

14. The Committee also recommends that the issue be continued to be followed up by the LegCo Panel on Development.

The acquisition and clearance of shipyard sites

(Paragraphs 15 and 16 of Part 4 of P.A.C. Report No. 59)

15. The Committee was informed that the Lands Tribunal hearings to determine the amount payable in respect of the former lessee's claim for compensation under the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) were held from 8 to 19 October 2012, 20 to 22 March 2013, on 23 April 2013, and from 25 to 26 April 2013. The judgment from the Lands Tribunal was still awaited.

16. The Committee wishes to be kept informed of further development on the subject.

Food labelling and nutrition labelling of infant and special dietary foods

(Paragraphs 21 to 23 of Part 4 of P.A.C. Report No. 59)

17. The Committee was informed that:

Development of the Hong Kong Code of Marketing of Breast-milk Substitutes

- a four-month public consultation on the Hong Kong Code of Marketing of Breast-milk Substitutes ("Hong Kong Code") was conducted from 26 October 2012 to 28 February 2013. Briefing sessions and meetings with manufacturers, distributors, importers, retailers and other relevant parties had been arranged. The Government had been collating and analyzing views and comments collected, as well as carefully considering the merits and feasibility of counter-proposals submitted. The Government would announce the result of the public consultation and the way forward in due course;
- the trade's compliance with the Hong Kong Code would be monitored by the Department of Health ("DH") and the Centre for Food Safety ("CFS") working closely together, and in collaboration with other non-governmental organizations and professional bodies;
- as regards nutrition labelling of special dietary foods, after conducting a preliminary survey on the distribution of special dietary foods in the local market, the CFS was reviewing the relevant standards of the Codex Alimentarius Commission ("Codex") and studying the regulatory

approaches adopted by other jurisdictions in respect of nutrition labelling of special dietary foods. The CFS would take into account the local situation and international development in recommending the way forward;

Nutrition claims and health claims

- the CFS had started to examine the issue of possible regulation of nutrition and health claims of formula products and foods for infants and young children (below 36 months) by collecting information and studying the approaches adopted by the Codex and some overseas countries. The CFS would take into account international practices as well as the current situation in Hong Kong in mapping out the way forward;
- in the meantime, as the Hong Kong Code included provision on nutrition and health claims, traders would be encouraged to comply with the Hong Kong Code upon its implementation when they make claims about formula products and foods intended for infants and young children under the age of 36 months;

Publicity and education

- a survey to identify knowledge gaps and information needs of the general public to facilitate further planning of publicity and education programmes was completed. The survey report recommended carrying out promotional and educational activities via different platforms to reach out to various target groups; and
- to achieve that, the CFS launched in June 2013 a new series of TV and radio Announcements in the Public Interest to encourage the public to use and compare nutrition labels to choose food with lower sodium content. Relevant articles on making use of nutrition labels in choosing prepackaged foods with less sodium were published in the CFS newsletters and bulletins. Roving exhibitions and public talks were also organized to show the public how to use nutrition labels properly in their daily lives. A new training kit on nutrition label education was also being prepared.

18. The Committee was also informed of the progress of follow-up actions on cases identified by Audit as set out below:

Chapter 4 "Nutrition labelling of infant and special dietary foods" of the Audit Report

- the CFS had investigated the 12 cases involving 30 products identified by Audit. The labels of 16 products were considered to be in order, and one product was found not for sale. The labels of the remaining 13 products had been revised and were being vetted by the CFS.

19. The Committee wishes to be kept informed of further development on the subject.

Records management work of the Government Records Service
(Paragraphs 24 to 26 of Part 4 of P.A.C. Report No. 59)

20. The Committee was informed that:

Records appraisal and accessioning of archival records

- the Government Records Service ("GRS") was actively clearing the backlogs of records pending appraisal of archival value and archival records pending accessioning, and aimed to complete the tasks in 2015;

Condition survey

- the condition survey of the GRS's collection had been completed; and

Manpower of the GRS

- to ensure sufficient manpower to meet various types of records management work and new challenges, additional posts approved in 2012-2013 had been filled as at December 2013.

21. The Committee wishes to be kept informed of further development on the subject.

Monitoring and reporting of air quality
(Chapter 1 of Part 7 of P.A.C. Report No. 59)

22. The Committee was informed that:

Administration of Air Pollution Index

- the Environmental Protection Department ("EPD") replaced the Air Pollution Index with a new health risk-based Air Quality Health Index system on 30 December 2013; and
- regarding the setting up of a general air-quality monitoring station in Tseung Kwan O, in September 2013, the EPD consulted the Sai Kung District Council on the potential sites and some members proposed additional sites for the EPD's consideration. The EPD was studying the feasibility of these additional sites. For the general air-quality monitoring station in Tuen Mun, the station was undergoing a baseline monitoring for 12 months. Reporting of air-quality monitoring data from this station had commenced since late 2013.

23. The Committee wishes to be kept informed of further development on the subject.

Implementation of air-quality improvement measures
(Chapter 2 of Part 7 of P.A.C. Report No. 59)

24. The Committee was informed that:

Emission control of vehicles

- *emissions from pre-Euro, Euro I and Euro II diesel vehicles* The Administration had consulted the relevant trades on its proposal to progressively phase out pre-Euro IV diesel commercial vehicles through an incentive-cum-regulatory approach. The LegCo Panel on Environmental Affairs ("EA Panel") was also consulted on 15 May 2013. The EA Panel met with the deputations from the transport trades and other stakeholders on 25 May 2013 on the proposal. Having considered the views collected, the Administration put forward a revised proposal for discussion at the EA Panel meeting on 2 October 2013.

With the support of the EA Panel, the Administration tabled the proposed regulation in LegCo on 30 October 2013 for negative vetting. Upon approval of the regulation on completion of the vetting procedures, the Administration would seek the LegCo Finance Committee's funding approval as soon as possible with a view to implementing the scheme in the first quarter of 2014;

- ***emissions from liquefied-petroleum-gas ("LPG") and petrol taxis and light buses*** All contracts for the one-off subsidy to help vehicle owners replace the catalytic converters and oxygen sensors in their LPG and petrol taxis and light buses were awarded in July 2013. The replacement exercise commenced in October 2013 and would take about six months to complete. Immediately after its completion, the EPD would deploy roadside remote sensing equipment to identify those LPG or petrol vehicles emitting excessively and ask their owners to rectify the excessive emission problem; and

Emission control of marine vessels

- ***enforcement of international standards and dark-smoke control of vessels*** The EA Panel supported on 27 May 2013 the legislative proposal to adopt Shade 2 on the Ringelmann Chart as an objective benchmark for measuring dark-smoke emission from vessels. It also supported on 24 June 2013 the legislative proposal on incorporating the latest standards of the International Maritime Organisation into the Merchant Shipping (Prevention of Air Pollution) Regulation (Cap. 413M). The Transport and Housing Bureau, the Marine Department and the Department of Justice ("DoJ") were working together to expedite the two exercises with a view to introducing the relevant bill and amendment regulation in LegCo as soon as possible within the 2013-2014 legislative session.

25. The Committee was also informed that follow-up actions had been completed or on-going to address three of the seven audit recommendations. The four outstanding audit recommendations included:

- formulating better strategies for reducing the number of pre-Euro IV diesel commercial vehicles running on the street;

- implementing a subsidy scheme for replacing high-polluting vehicles;
- requiring local and river-trade vessels to use ultra-low-sulphur diesel in Hong Kong waters as early as possible; and
- completing the legislative procedures necessary for implementing the proposed non-road mobile machinery emission-control system.

26. The Committee recommends that the issues related to the implementation of air-quality improvement measures be followed up by the LegCo EA Panel.

27. The Committee wishes to be kept informed of further development on the subject.

Regulatory control of private hospitals

(Chapter 3 of Part 7 of P.A.C. Report No. 59)

28. The Committee was informed that:

Inspection of private hospitals

- ***regulatory actions against irregularities detected during inspections to private hospitals*** The DH had finished revising the protocol on regulatory actions against non-compliance by private hospitals. The levels of regulatory actions were commensurate with the severity levels of non-compliance. Regulatory letters would be issued to remedy serious non-compliance. For those with an impact on public health, the DH would require rectification by the private hospital concerned as part of the registration conditions;
- ***closure arrangements*** The DH had drawn up a set of guidelines to assist any private hospital that intends to cease operation. The guidelines set out, among other things, necessary arrangements that private hospitals needed to make to cease operation smoothly without compromising patient safety. The DH would also monitor the process in accordance with the guidelines;

Monitoring of sentinel events

- the DH was reviewing private hospitals' sentinel event reporting system, including its reporting criteria and disclosure, and would seek the views of the Steering Committee on Review of Regulation of Private Healthcare Facilities. The DH would update its guidelines on the sentinel event reporting system based on the recommendations of the Steering Committee on Review of Regulation of Private Healthcare Facilities;

Price transparency in hospital charges

- the Steering Committee on Review of Regulation of Private Healthcare Facilities would review and examine measures that would help enhance price transparency of private hospital services, such as disclosure of price information, quotation system, packaged pricing and publication of statistics on hospital charges;

Performance reporting in Controlling Officer's Report

- the DH would improve its performance/outcome indicators for regulatory control of private hospitals, taking into account the recommendations of the Steering Committee on Review of Regulation of Private Healthcare Facilities; and

Way forward

- the review of the regulatory regime for private hospitals was in progress. The Steering Committee on Review of Regulation of Private Healthcare Facilities was expected to come up with recommendations by the first quarter of 2014. Recommendations would be made to strengthen the regulatory control of private hospitals in the areas of corporate and clinical governance, price transparency, sentinel event reporting system, complaint management, etc.

29. A summary of progress in implementing Audit's and the Committee's recommendations is at **Appendix 5**.

30. The Committee wishes to be kept informed of further development on the subject.

Land grants for private hospital development

(Chapter 4 of Part 7 of P.A.C. Report No. 59)

31. The Committee was informed that:

Special land grant conditions set on private hospitals

- the Administration had made arrangements to ensure the inclusion of appropriate conditions in land leases or other documents of existing private hospital sites to effect the Government intention when opportunities arise in future (e.g. application for modification of lease conditions). Policy endorsement would be sought for deviations from applicable policies;
- separately, in light of the Committee's recommendation, the Lands D was consulting relevant policy bureaux on the draft of a general protocol on matters related to the administration of private treaty grants ("PTGs"). The protocol was intended to set out the delineation of responsibilities among bureaux/departments in the processing of PTGs, the incorporation of suitable requirements in the lease or other agreement, and the subsequent monitoring of compliance and enforcement;

Monitoring and enforcement of land grant conditions

- on the irregularities observed at some private hospitals, the DH and Lands D had been seeking clarifications of the facts and following up each of the cases with the grantees. On the other hand, the DH and Lands D had implemented a monitoring system at the headquarters level to keep track of the handling of possible breaches. The DH and Lands D were also discussing the delineation of responsibilities for monitoring compliance with conditions of private hospital leases;

Provision of free or low-charge beds

- Hospital D set up a geriatric ward to provide 20 free beds in accordance with the land grant conditions since February 2013. The hospital had promulgated the availability of free beds and application channel on its website and at its admission office. Social workers from the Hospital Authority and non-governmental organizations were also invited to refer patients. The utilization rate of the free beds reached 95% in July 2013. As regards low-charge beds, Hospital D had taken measures to increase

their utilization, on which the DH had stepped up the monitoring. The monthly utilization rate had increased from 33-41% between 2010 and 2012 to 73-88% from April to July 2013;

- in the case of Hospital F, the DH was discussing the proposal of providing low-charge beds with the grantee of Hospital F;

Profits/surplus plough-back requirement

- private hospitals that were subject to financially-related conditions under the land grants had submitted to the DH annually audited accounts and auditors' certification for observance with such conditions;
- the DH and Lands D were reviewing past audited accounts of the private hospitals concerned and would follow up when necessary;

Site development required by land grant conditions

- Hospital C submitted amendment building plans for a social centre for the elderly in January 2013. With the support of the relevant departments, the Lands D approved the building plans for the development on land grant 4 under the lease in May 2013. The building works had been completed by the end of 2013;

Sale of land for private hospital development

- for future disposal of private hospital sites, the Administration would take into account the demand and supply and service requirements of the private healthcare sector in order to determine the suitable size of private hospital sites, the scale of development as well as hospital-related lease requirements;

Way forward

- in disposing the Wong Chuk Hang site for private hospital development, the Administration had imposed on the tenderer a set of minimum requirements in the conditions of sale and the service deed. The DH would develop an enforcement protocol in consultation with the Food and Health Bureau and Lands D for monitoring compliance with the conditions of sale and the service deed; and

- the Administration would review the policy and arrangements for private hospital development as well as the effectiveness of the stepped-up enforcement measures taken on existing private hospitals on PTG sites where appropriate.

32. A summary of progress in implementing the Audit recommendations since the Government Minute was laid before the LegCo in May 2013 is at **Appendix 6**.

33. The Committee wishes to be kept informed of further development on the subject.

Government's financial support to film industry

(Chapter 5 of Part 7 of P.A.C. Report No. 59)

34. The Committee was informed that:

- Create Hong Kong ("CreateHK") had started a review on the Film Development Fund and the Film Guarantee Fund in the fourth quarter of 2013 and would consult the Film Development Council and relevant stakeholders in due course. The review would also cover the existing practice of using the applicant's ability to secure third-party financing as a measure of the commercial viability of a film and the existing requirements on submission of documents stipulated in the production finance agreements of film-production projects and the funding agreements of film-related projects;
- CreateHK had, in consultation with the DoJ, revised the terms of the production finance agreements of film-production projects to explicitly provide for the rights for Government to audit the books and records of distributors; and
- as for the funding support to the Hong Kong International Film Festival Society, CreateHK was working with the parties concerned on the setting of a ceiling on the accumulated fund of the Society.

35. The Committee wishes to be kept informed of the outcome of the review of the Film Development Fund and the Film Guarantee Fund, and the setting of a

ceiling on the accumulated fund of the Hong Kong International Film Festival Society.

Management of public enquiries and complaints by the Food and Environmental Hygiene Department

(Chapter 6 of Part 7 of P.A.C. Report No. 59)

36. The Committee was informed that the Food and Environmental Hygiene Department ("FEHD") had taken action to develop a new Complaints Management Information System ("CMIS") for more effective monitoring of the processing of complaint cases. As at September 2013, the new CMIS project had progressed to the user-testing stage. Under the current schedule, the new CMIS was planned to be rolled out by phases and came into full operation in late 2014. User training would be provided by phases to tie in with the roll-out programme. The FEHD would continue to closely monitor the progress of the project with a view to launching the new CMIS in a timely manner. After the full implementation of the new CMIS, the FEHD would review the role and establishment of the Complaints Management Section.

37. The Committee wishes to be kept informed of further development on the subject.

Provision of local services by the Marine Department

(Chapter 7 of Part 7 of P.A.C. Report No. 59)

38. The Committee was informed that the Marine Department had taken action to follow up on all the recommendations made by Audit. A summary of the progress in implementing the Audit recommendations since the Government Minute was laid before the LegCo in May 2013 is at **Appendix 7**.

39. The Committee wishes to be kept informed of further development on the subject.

Youth employment services

(Chapter 8 of Part 7 of P.A.C. Report No. 59)

40. The Committee was informed that:

Provision of support and assistance

- the Labour Department ("LD") had reviewed the arrangements for inspecting the training bodies which provide case management services of the Youth Employment and Training Programme ("YETP") (formerly known as Youth Work Experience and Training Scheme). The review was completed in March 2013. Since April 2013, during inspection visits, the LD would carry out sample checks on case files to monitor the performance of the training bodies including their case managers. LD officers would, at the same time, meet the management staff of the training bodies and conduct checks of their record of case file review to ascertain that training bodies had carried out regular review of their case files to ensure that their case managers had provided adequate support and assistance to the trainees as required under the Training Bodies Manual;
- the LD had included in the tender documents for procuring case management and employment support services for trainees of YETP in the 2013-2015 programme years, the requirement of submission of yearly reports on performance by training bodies. Assessment would be made by the LD every six months on the performance standards achieved by training bodies in accordance with the service contract;

Claims for case management service fees

- among the measures to improve the efficiency of processing claims for case management service fees, the LD had clearly stated in the tender documents of the forthcoming tender exercise that case management service fees would be released in 45 calendar days after all the necessary documents or information had been received. Training bodies were informed of this service standard at a tender briefing held on 17 June 2013. In parallel, the LD had revised the workflow for making applications for case management service fees. Under the provision of the new contracts for the 2013-2015 programme years, training bodies could claim fees upon completion of specific service targets;

Accreditation of training courses and inspections

- the LD had completed a review on the appropriateness of accrediting YETP training courses under the Qualifications Framework ("QF") and reported the findings to the LegCo Panel on Manpower at its meeting held on 18 June 2013. The Panel on Manpower noted that YETP was an employment-oriented programme aimed at enabling young people to better understand the world of work through participating in a wide range of short pre-employment training courses. Apart from not setting any minimum academic requirements, applicants were also not required to pass any selection interviews so that all young people interested in seeking employment could be admitted. Seeking accreditation of the pre-employment training courses under QF might not best serve the needs of young people with diversified backgrounds, interests and capabilities;
- the LD had adopted a risk-and-performance-based approach and reviewed its criteria in selecting training courses for inspections. Starting from June 2013, inspections would be arranged to training bodies which had not been inspected for a longer period of time or had been approved to conduct a large number of courses. Moreover, a single visit would be arranged as far as practicable if a training body had been selected for both course and case management service inspections at the same time;

Surveys on development of trainees

- the LD had reviewed the practices in conducting surveys on the development of trainees and made appropriate enhancements. In addition to conducting a survey on 10% of the trainees a few months after they had completed the 12-month basic period of case management services and on-the-job training, the LD would, as from the 2013-2014 programme year, start to conduct a second round of survey on 10% of these trainees in order to track their employment status after a longer period when all the on-the-job training periods had ended. The LD would also follow up on the employment needs of the trainees. Trainees who had completed the case management services, but were unable to secure employment and still had job search needs, would be invited to join YETP again or make use of the LD's other employment services after an assessment of their suitability for receiving services;

Procurement of services

- the LD had drafted the tender documents in accordance with the procurement procedures specified in the Government Stores and Procurement Regulations ("SPRs") and sought the endorsement of the Central Tender Board ("CTB"). On 7 June 2013, the LD issued the invitation for tenders for the provision of case management and employment support services for trainees of YETP. Contracts had been awarded to successful tenders in December 2013. Moreover, the LD was preparing the tender for provision of training courses and would submit the tender documents to the CTB for endorsement as required by SPRs. The LD would closely monitor the progress to ensure that the new procurement arrangements could be adopted in good time; and

Review on opening hours of the Youth Employment Resource Centres ("YERCs")

- the LD was reviewing the opening hours of the YERCs. The LD would collect feedback from target users and YERC members and analyze the utilization pattern of the centres at different timeslots. In the light of the findings and feedback, the LD would consider whether the operation hours should be revised.

41. The Committee wishes to be kept informed of the progress of the preparation of the tender for provision of training courses and the adoption of the new procurement arrangements, as well as the review of the opening hours of the YERCs.

Consideration of the Director of Audit's Report tabled in the Legislative Council on 13 November 2013 As in previous years, the Committee did not consider it necessary to investigate in detail every observation contained in the Director of Audit's Report. The Committee has therefore only selected those chapters in the Director of Audit's Report No. 61 which, in its view, referred to more serious irregularities or shortcomings. It is the investigation of those chapters which constitutes the bulk of this Report.

2. **Meetings** The Committee held a total of nine meetings and five public hearings in respect of the subjects covered in this Report. During the public hearings, the Committee heard evidence from a total of 27 witnesses, including four Directors of Bureau and five Heads of Department. The names of the witnesses are listed in *Appendix 8* to this Report. A copy of the Chairman's introductory remarks at the first public hearing in respect of the Director of Audit's Report No. 61 on 23 November 2013 is in *Appendix 9*.

3. **Arrangement of the Report** The evidence of the witnesses who appeared before the Committee, and the Committee's specific conclusions and recommendations, based on the evidence and on its deliberations on the relevant chapters of the Director of Audit's Report, are set out in Chapters 1 to 3 of Part 7 below.

4. The video and audio record of the proceedings of the Committee's public hearing is available on the Legislative Council website.

5. **Acknowledgements** The Committee wishes to record its appreciation of the cooperative approach adopted by all the persons who were invited to give evidence. In addition, the Committee is grateful for the assistance and constructive advice given by the Secretary for Financial Services and the Treasury, the Legal Adviser and the Clerk. The Committee also wishes to thank the Director of Audit for the objective and professional manner in which he completed his Reports, and for the many services which he and his staff have rendered to the Committee throughout its deliberations.

P.A.C. Report No. 61 – Part 6

*Observations of the Public Accounts Committee on the Report of the Director of Audit on the
Accounts of the Government of the Hong Kong Special Administrative Region
for the year ended 31 March 2013*

The Committee noted the Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2013.

Direct land grants to private sports clubs at nil or nominal premium

A. Introduction

The Audit Commission ("Audit") conducted a review of how the Government has managed the 32 private recreational leases ("PRLs") granted to 27 private sports clubs at nil or nominal premium.

Background

2. The Government has a long history of leasing lands at nil or nominal premium to "private clubs" (now termed "private sports clubs" by the Administration) to develop sports and recreational facilities for use by their members. Such leases for private sports and recreational purposes are commonly called PRLs.

3. The Home Affairs Bureau ("HAB") is the Government's policy bureau for overseeing PRLs. The Lands Department ("Lands D"), as the Government land agent, supports the HAB in administering the PRLs. As at 31 March 2013, 69 PRLs were granted to private sports clubs, social and welfare organizations, uniformed groups, national sports associations ("NSAs") and civil servants' associations. Of the 69 PRLs, 51 PRLs had expired in 2011 or 2012, including 23 PRLs held by private sports clubs. By granting PRLs at nil or nominal premium to private sports clubs and other organizations, the Administration is in effect providing them with financial subsidies in terms of premium foregone for the whole term of the lease.

4. The Committee held two public hearings on 23 and 25 November 2013 to receive evidence on the findings and observations of the Director of Audit's Report ("the Audit Report").

Declaration of interests

5. At the beginning of the Committee's first and second public hearings held on 23 and 25 November 2013:

- **Hon Abraham SHEK Lai-him** declared that he was a member of Hong Kong Country Club, Hong Kong Football Club, Hong Kong Golf Club, Hong Kong Jockey Club ("HKJC") and Royal Hong Kong Yacht Club;

Direct land grants to private sports clubs at nil or nominal premium

- **Hon Paul TSE Wai-chun** declared that he was a member of HKJC, Scout Association of Hong Kong and South China Athletic Association ("SCAA");
- **Hon Alan LEONG Kah-kit** declared that he was a member of HKJC;
- **Hon NG Leung-sing** declared that he was a member of HKJC and Craigenower Cricket Club ("CCC");
- **Hon CHAN Hak-kan** declared that he was a member of HKJC;
- **Hon Kenneth LEUNG** declared that he was a member of the Ladies Recreation Club and CCC; and
- **Mr David SUN Tak-kei, Director of Audit**, declared that he was a member of HKJC, SCAA and Clearwater Bay Golf and Country Club.

Opening statement by the Secretary for Home Affairs

6. **Mr TSANG Tak-sing, Secretary for Home Affairs**, made an opening statement at the beginning of the Committee's first public hearing held on 23 November 2013, the summary of which is as follows:

- in July 1997, the newly established Hong Kong Special Administrative Region ("HKSAR") Government decided that PRLs could be extended by 15 years upon expiry and the decision received public support;
- before renewing PRLs that expired in 2011 or 2012, the HAB had conducted a detailed study taking various factors into consideration, including legal advice, public interest, the demand for and supply of sports facilities, the investments that private sports clubs had made over the years and the expectation of their members. The HAB recognized the contributions of private sports clubs and had decided to renew their leases for another 15 years. In granting these renewals, the Administration had made clear to the lessees that:
 - (a) there should be no expectation that their leases would be further renewed upon expiry on the same terms and conditions as contained in the leases as so extended; and

Direct land grants to private sports clubs at nil or nominal premium

- (b) they should agree with the HAB a scheme to open up their sports facilities to outside bodies and the agreed "opening-up" scheme would be part of the new lease conditions;
- as always, before supporting the renewal of any specific land lease, the Administration made sure that the land was not planned for any public purposes. In addition, there was a condition specified in the lease that the Government had the right to resume the concerned lot for a public purpose as long as the lessee had been given appropriate prior notice;
 - to date, the Lands D had renewed 10 PRLs held by private sports clubs and four PRLs held by non-governmental organizations ("NGOs"). Some of these clubs provided sports facilities which were not readily available at government venues and contributed to the development of different types of sport in Hong Kong;
 - although the Government now provided more public sports facilities than it did in the past, there remained a strong demand for sports and recreational facilities in the community. By providing various facilities to over 140 000 members, private sports clubs had helped to relieve the pressure on the public sector. Some private sports clubs, after years of development, possessed sports facilities suitable for hosting major international sports events, which helped to attract international competitions to Hong Kong;
 - the HAB would continue to monitor the progress of the "opening-up" schemes, and follow up on cases with a relatively low degree of opening-up. For clubs which had not developed satisfactory opening-up schemes, the HAB and the Lands D would not agree to renewal of their leases;
 - the current Administration had been particularly concerned about land and housing supply since assuming office. It was against this background that the HAB initiated a comprehensive policy review of PRLs in September 2013. During the review, consideration would be given to different development objectives, the public interest on various fronts, long-term policy objectives for sports and recreation, other potential uses of and revenue from the concerned lots, facilities and supporting hardware of the private sports clubs, as well as the interests of the lessees, their members and staff. Apart from the HAB, other policy bureaux and departments such as the Development Bureau ("DEVB"), the Lands D, the Planning Department and the Rating and

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Valuation Department were taking part in the review. Given the extensive scope and complicated nature of the review, the HAB expected preliminary results to be available by the end of 2014; and

- he agreed with the various recommendations laid out in paragraphs 5.8 and 5.9 of the Audit Report. As for cases of suspected non-compliance with lease conditions mentioned in the Report, the Administration would follow up on a case-by-case basis.

The full text of the Secretary for Home Affairs' opening statement is in *Appendix 10*.

B. Government policy decisions in 1969 and 1979

Review of the PRL policy

7. According to paragraph 2.2 of the Audit Report, the existing Government policy on PRLs is largely based on principles endorsed by the Executive Council ("ExCo") over 30 years ago in 1979 (paragraphs 2.3 to 2.5 of the Audit Report refer). The PRL policy was primarily established based on the recommendations of two Review Reports, one issued in 1968 and another in 1979. The 1968 Report and the 1979 Report were endorsed by ExCo in 1969 and 1979 respectively. No major policy revisions had since been made, except with the "greater access requirement" endorsed by ExCo in July 2011 requiring the lessees of renewed PRLs to further open up their sports facilities for use by eligible outside bodies¹.

8. The Committee enquired why no comprehensive policy review of the PRL policy had been made by the HAB since 1979, notwithstanding the increasing problem of land shortage in Hong Kong, and that the Administration had informed ExCo as early as 1969 that the Government would conduct comprehensive reviews of the PRL policy at suitable intervals as the public interest required and some Members of the Legislative Council ("LegCo") had made a number of suggestions on the PRL policy as early as 2002.

¹ Eligible outside bodies include schools, NGOs receiving subvention from the Social Welfare Department, uniformed groups and youth organizations receiving subvention from the HAB, and NSAs.

9. **Secretary for Home Affairs** explained that:

- to ensure Hong Kong's smooth transition to the People's Republic of China's sovereignty on 1 July 1997, all PRLs that had expired prior to 1 July 1997 were renewed for a term of 15 years basically on the same terms and conditions as in their previous leases;
- the HAB well understood the suggestions on the PRL policy made by some LegCo Members at the Council meetings and at the LegCo Panel on Home Affairs, the nature of which mainly centered on requiring the lessees to further open up their sports facilities for use by eligible outside bodies;
- in this regard, the HAB started to review the extent to which the private sports clubs could be more opened to eligible outside bodies in 2010. The HAB considered that although the private sports clubs had already provided some degree of access to eligible outside bodies², there was scope for them to allow more access;
- in July 2011, ExCo endorsed that PRLs should be renewed in accordance with the 1979 policy decisions, subject to the clubs having met various renewal criteria, including the modified lease conditions on the provision of greater access to eligible outside bodies, i.e. the clubs were required to submit for the HAB's approval their "opening-up" schemes and to submit quarterly reports on usage under the approved schemes. Under the approved "opening-up" schemes in the recently renewed PRLs, lessees were required to open up their facilities to the use of eligible outside bodies to 50 hours per month or more; and
- as the lease conditions for the current PRLs were drawn up over 15 years ago, some of the lease conditions might be considered obsolete, such as prohibitions against people from eligible outside bodies using the toiletries provided in the changing rooms of private sports clubs. Such obsolete conditions had been removed from the currently renewed PRLs.

² As a Condition of Grant in all PRLs after 1979, a lessee when required to do so by a competent authority shall permit outside bodies to book its sports facilities for no more than three sessions of three hours each per week, provided that the use of the facilities "shall not be on a weekend or public holiday", i.e. the "3 x 3" access requirement. The competent authorities are the Secretary for the Civil Service, Secretary for Education, Secretary for Home Affairs, Director of Social Welfare and Director of Leisure and Cultural Services.

Direct land grants to private sports clubs at nil or nominal premium

10. On how the present policy review of PRL differed from the past policy reviews of the same, **Secretary for Home Affairs** responded that:

- the breadth and depth of the current review were greater than those of the past reviews of the PRL, having regard to the fact that increasing land and housing supply was one of the top policy objectives of the current Administration. The HAB would take account of factors such as sports development needs, land use considerations, the overall utilization of the sites, the interests of PRL lessees and their members and the wider public interest when formulating the way forward for the PRL policy; and
- there was much room for the HAB to introduce changes to the existing PRL policy, as the lessees had been explicitly advised that there should be no expectation that their leases would be further renewed when they next expired, and that even if the leases were renewed, they might not be renewed at nominal premium or on the same terms and conditions as before.

11. Responding to the Committee's enquiry as to the types of assistance which would be rendered by the Lands D to the HAB in the comprehensive review of the PRL policy, **Ms Bernadette LINN, Director of Lands**, said that such assistance should include making reference to other private treaty grants, such as those for private hospitals, in reviewing the conditions in the PRLs and providing advice from a planning and land use angle.

12. Noting that the policy review involved the participation of various policy bureaux and government departments ("B/Ds"), the Committee enquired whether there was a mechanism within the Government to resolve differences amongst B/Ds on a policy. **Mr Thomas CHAN, Deputy Secretary for Development (Planning and Lands)**, replied in the positive.

13. As to why the comprehensive review of the PRL policy was not initiated by the HAB shortly after the current Administration assumed office in July 2012, **Secretary for Home Affairs** explained that this was because the HAB had other pressing issues to handle then.

Direct land grants to private sports clubs at nil or nominal premium

14. In response to the Committee, **Secretary for Home Affairs** confirmed that:
- the comprehensive review of the PRL policy would not cover the renewal of the remaining 13 PRLs that expired in 2011 or 2012, but might impact on the renewal of PRLs that expired after 2014;
 - the HAB would consult the views of LegCo on the preliminary results of the comprehensive review of the PRL policy expected to be available by the end of 2014, before deciding on the way forward;
 - the comprehensive review of the PRL policy would begin in earnest once the formal renewal process for the PRLs that expired in 2011 or 2012 had been completed; and
 - the HAB would lead the comprehensive review of the PRL policy.

Renewal of PRLs

15. **Secretary for Home Affairs** advised that the Lands D renewed PRLs at nil or nominal premium on the basis of policy support given by HAB for a 15-year term. When considering whether or not to give policy support for the renewal of a PRL, the following basic criteria were adopted by the HAB:

- whether or not the site was required for a public purpose;
- whether or not there had been any significant breach of lease conditions; and
- whether or not the lessee had a non-discriminatory membership.

16. The Committee enquired whether private sports clubs located at a densely populated area would not have their PRLs renewed in future. **Secretary for Home Affairs** replied that this would not necessarily be the case, as the sports and recreational activities provided by private sports clubs could meet the strong demand for such facilities and help to relieve the pressure on public facilities.

17. The Committee further enquired whether the Administration would resume the land if a private sports club on PRL should fail to open up its sports facilities for use by eligible outside bodies.

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18. **Secretary for Home Affairs** responded that if a private sports club on land granted under PRL had never opened up its sports facilities for use by eligible outside bodies, the HAB would not support its application for PRL renewal. If the PRL of a private sports club was yet to be renewed, the HAB would see how such situation could be improved in the course of the comprehensive review of the PRL policy.

19. On whether private sports clubs had the recourse to appeal against the Administration's decision of not renewing their PRLs, **Secretary for Home Affairs** ensured the Committee that a fair, reasonable and legal approach had been and would continue to be adopted in processing applications for PRL renewal.

20. Responding to the Committee's enquiry as to whether it was discriminatory for a private sports club on PRL to charge high entry fees to join the club as members, **Secretary for Home Affairs** advised that the non-discriminatory membership policy adopted by private sports clubs on PRL for the admission of new members referred to any form of discrimination by race, religion, or sex or in the order in which applicants were given membership. The existing non-discriminatory membership policy would be considered in the context of the current comprehensive review of the PRL policy.

21. The Committee pointed out that although providing eligible outside bodies with greater access to private sports clubs on PRL was a major request from LegCo Members, the HAB did not address the motion passed by the LegCo Panel on Home Affairs on 8 July 2011 calling on the Government to, inter alia, renew the PRLs for three to five years and to review the terms and conditions of the leases to allow greater access to the clubs' facilities by the general public before further renewing the PRLs.

22. **Secretary for Home Affairs** responded that the HAB had considered whether to continue to renew PRLs that had expired in 2011 or 2012 for 15 years, and concluded that this was appropriate for the following reasons:

- the process of renewing a PRL took two years or more. New leases took effect retrospectively from the date when the previous lease expired (rather than the date of signing a new lease). If the HAB were to renew leases for a short term of say, three years, the HAB would have to start the process of renewing leases that had expired in 2011 or 2012 in 2014

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and 2015 respectively. This would conflict with the timescale for and the conduct of the review of PRL policy and gave the HAB very little time in which to evaluate properly lessees' compliance with the new lease conditions and the extent to which this had helped further to promote sports and recreational opportunities for the community;

- in HAB's discussions with lessees, the majority of the lessees had advised that if their leases were renewed for fewer than 15 years, with the implication that following expiry the leases might not be further renewed, they would not be in a position to make any significant investment in the development and maintenance of their facilities or to recruit new members. This would have a deleterious effect on lessees' ability to provide sports and recreational opportunities to their members and the wider community under the enhanced "opening up" arrangements;
- several of the lessees had a history stretching back over 100 years, had thousands of members and had invested significant amounts in developing facilities. Accordingly, the HAB considered it fair to renew leases for 15 years (from the date of expiry of the current leases) to allow lessees to have sufficient time to prepare for possible major changes (which could include closing down) following the review of the policy on PRLs; and
- reducing significantly the length of the term of lease renewal would be a major policy change. The HAB considered it inadvisable to make such a change as an ad hoc decision in isolation without proper justification in the context of a comprehensive review of the PRL policy.

23. The Committee noted from paragraph 1.8 of the Audit Report that the main reasons for the Government to continue to renew PRLs were because private sports clubs on land held under PRLs had made contribution to the promotion of sports development and the provision of recreational and sports facilities in Hong Kong, and they could continue to play an important role in this respect. Private sports clubs on land held under PRLs also helped to attract overseas executives and professionals to work in Hong Kong and maintain Hong Kong's status as an international metropolis.

Direct land grants to private sports clubs at nil or nominal premium

24. At the request of the Committee, **Secretary for Home Affairs** provided the following responses after the public hearings (in *Appendices 11 and 12*):

- information to substantiate that the PRL policy served the policy objectives for sports development, i.e. promoting sports in the community, promoting elite sports development and promoting Hong Kong as a centre for international sports events;
- comparison between private sports clubs' sports facilities and those operated by the Leisure and Cultural Services Department ("LCSD") in meeting the policy objectives for sports development;
- information to substantiate that the sports and recreational facilities operated by the private sports clubs on PRL helped to significantly relieve the pressure on public facilities; and
- information to substantiate that the sports and recreational facilities operated by the private sports clubs on PRL helped to attract overseas executives and professionals to work in Hong Kong and maintain Hong Kong's status as an international metropolis.

25. Responding to the Committee's enquiry on the estimated cost of the Administration taking over the sports and recreational facilities run by private sports clubs on PRL, **Secretary for Home Affairs** said that it was currently not possible for the Administration to provide such information as the private sports clubs' facilities were built and operated in a manner different from publicly built and funded facilities. Furthermore, many clubs contained types of facility that were not currently operating by the LCSD. Nevertheless, the HAB planned to address this issue in the course of the comprehensive review of the PRL policy.

26. The Committee enquired whether the Government was bound by Article 121 of the Basic Law³ ("BL 121") to continue to renew PRLs at nil or nominal premium, albeit the grantees would continue to subject to Government rent at 3% of the rateable value a year.

3 BL121 provides that "As regards all leases of land granted or renewed where the original leases contain no right of renewal, during the period from 27 May 1985 to 30 June 1997, which extend beyond 30 June 1997 and expire not later than 30 June 2047, the lessee is not required to pay an additional premium as from 1 July 1997, but an annual rent equivalent to 3 per cent of the rateable value of the property at that date, adjusted in step with any changes in the rateable value thereafter, shall be charged."

Direct land grants to private sports clubs at nil or nominal premium

27. **Director of Lands**, responded that:

- BL 121 sought to implement paragraphs 2 and 3 of Annex III to the Sino-British Joint Declaration ("JD") concerning the grant and renewal of leases during the period from 27 May 1985 (i.e. the date on which the JD came into force) to 30 June 1997;
- in respect of leases granted or renewed by the HKSAR Government during such period and which extended beyond 30 June 1997, the relevant JD provisions restricted the imposition of additional premium as from 1 July 1997 in order to address the lessees' concern that substantial additional premium might be imposed by the HKSAR Government after that date;
- such a restriction did not apply to the grant or renewal of leases, including PRLs, by the HKSAR Government after 30 June 1997; and
- the issue of granting and renewing PRLs at higher than nominal premium would be considered in the course of the comprehensive review of the PRL policy.

28. At the request of the Committee, **Secretary for Home Affairs** provided, after the public hearings, the Government rent paid by each private sports club on PRL each year since 1997 (in *Appendix 13*).

29. Noting that one of factors that the HAB considered in supporting an application for PRL renewal was the amount of money that had been spent by the club to develop and improve its facilities over the years, the Committee enquired whether the HAB had requested the club to provide information, such as its past accounts and records of money spent to develop and improve its facilities and the amount of money which the club intended to spend in future to further develop and improve its facilities, before giving support or otherwise to the application.

30. **Mrs Yolanda TONG, Chief Leisure Service Manager (Recreation & Sport)**, responded that the HAB had never checked or looked into the accounts of the lessees, as the main task of the HAB was to ensure that the PRL sites were used in a proper manner which could contribute to the promotion of sports development and the provision of recreational and sports facilities in Hong Kong. **Secretary for Home Affairs** supplemented that in the recent round of PRL renewals, all renewed

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leases were granted in recognition of the private sports clubs' continued ability to make contribution to the promotion of sports development and the provision of recreational and sports facilities in Hong Kong.

31. The Committee further noted that whilst the Administration would grant or renew a PRL for 15 years, there was a condition specified in the lease that the Government had the right to resume the concerned lot for public purpose as long as a 12 calendar months' prior notice was given to the lessee. The Committee queried whether this was contradictory from the standpoint of safeguarding public interest. **Secretary for Home Affairs** responded that there was no contradiction. In fact, there were cases whereby the Government had resumed part of the PRL site for a public project.

New lease conditions

32. Responding to the Committee's enquiry about the changes that had been made to the lease conditions of the renewed PRLs, **Director of Lands** advised that:

- the policy of PRLs had remained unchanged since 1979 until 2011, following the review started by the HAB in 2010. As such, there had been no change in the general conditions during that period. After the review, in renewing PRLs, the provision of greater access requirement to eligible outside bodies was amended. According to the new lease extension conditions, the lessees were required to submit for the HAB's approval their "opening-up" schemes and to submit quarterly reports on usage under the approved schemes;
- besides, a new condition was added (where the condition was not in the existing lease) that the lessees should not alter or add to its Memorandum and Articles of Associations ("M&As") without first having obtained the consent in writing of the Director of Lands; and
- some obsolete lease conditions had also been removed.

33. At the request of the Committee, **Director of Lands** provided, after the public hearings, a list of changes in general clauses in PRLs introduced for application across-the-board after the review completed in 2011 (excluding those relating to technical updating of clauses) (in *Appendix 14*).

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34. **Secretary for Home Affairs** advised that as PRLs were only granted to non-profit-making bodies, the HAB had requested lessees of PRLs that had expired in 2011 or 2012 to include a provision in their M&As that in the event of winding up, all monies must be donated to charitable organizations, if these lessees had not yet done so.

C. Implementation of the "opening-up" requirement

Criteria adopted by the HAB for approving the "opening-up" scheme

35. **Chief Leisure Service Manager (Recreation & Sport)** advised that to encourage PRL lessees to contribute more to the Government key objectives for sports development, the HAB had imposed more stringent requirements for lessees to further open up their facilities, including:

- to open up their sports facilities to eligible outside bodies for a minimum of 50 hours per month;
- to accept direct requests from eligible outside bodies without the need to go through a competent authority;
- to accord priority to eligible outside bodies, over their own members, for use of their sports facilities covered under the approved "opening-up" schemes;
- to charge eligible outside bodies fees for use of their sports facilities similar to those charged by the LCSD for use of similar sports facilities;
- to operate junior membership schemes⁴ to allow talented young athletes to join clubs at significantly reduced rates of entry;
- to allow NSAs to use their facilities for training or competition for a minimum of 10 hours per month; and
- where appropriate, to allow NSAs to use their facilities for hosting international events.

⁴ At present, some private sports clubs charge young people significantly reduced entry fees to join their clubs as junior members. This allows young athletes to use their facilities for training, and to gain competition experience by representing the clubs. When renewing the PRLs, private sports clubs are required to put in place junior membership schemes that allow young sportsmen and women below a certain age to join at significantly reduced rates of entry.

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Utilization of private sports clubs' sports facilities by eligible outside bodies

36. The Committee noted from Table 2 referred to in paragraph 3.20 of the Audit Report that the facility-hours⁵ used by eligible outside bodies in nine of the 19 private sports clubs in March 2013 were less than 10% of the facility-hours committed by the clubs for opening up their sports facilities for use by eligible outside bodies, including no usage recorded in four of these clubs. The Committee enquired why the usage of private sports clubs' facilities by eligible outside bodies was far below the clubs' committed "opening-up" facility-hours under the approved "opening-up" schemes.

37. **Secretary for Home Affairs** responded that the implementation of the approved "opening-up" schemes did not imply that the usage of the private sports clubs' sports facilities by eligible outside bodies would necessarily increase. There were quite a number of factors which could discourage eligible outside bodies from using the clubs' facilities. These included that some clubs tended to set aside more popular sessions, such as at weekends and public holidays, for their members. Nevertheless, the HAB would strive to come up with ways to improve usage of the private sports clubs by eligible outside bodies as recommended by Audit.

38. **Mr Jonathan McKINLEY, Deputy Secretary for Home Affairs (2)**, supplemented that:

- the information in Table 2 of the Audit Report was a snapshot of the usage of private sports clubs' sports facilities by eligible outside bodies in March 2013⁶. No private sports club was required by the lease to implement the new "opening-up" scheme, publicize such a scheme and file quarterly reports to the HAB in March 2013, as the first PRL renewal for a private sports club took effect in March 2013. That being the case, the HAB had urged all private sports clubs on PRLs that had expired in 2011 or 2012 to start opening up their sports facilities to eligible outside bodies in line with the greater access requirement and to step up publicity, even if their PRLs had not yet been renewed;

5 Under the approved "opening-up" schemes, the "opening-up" hours are calculated based on facility-hours, which means that the use of any individual sports facility for any one hour will be counted as one facility-hour. For example, the use by an outside body of one table tennis table and one tennis court for an hour each would accordingly be counted as two facility-hours, and similarly, the use of four lanes in a swimming pool for an hour would be counted as four facility-hours.

6 As advised by HAB after the public hearings, the information in Table 2 of the Audit Report is extracted from returns provided by private sports clubs on PRLs between October 2012 and March 2013 on a voluntary basis.

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- although the number of facility-hours used by eligible outside bodies totalled 4 455 in March 2013 (representing 23.3% of the total monthly committed "opening-up" facility-hours), these figures were a great improvement over the past few years whereby only about 450 facility-hours were used by eligible outside bodies in a month as found in the surveys; and
- the HAB did not consider the March 2013 figures acceptable. The HAB would continue to step up efforts in various fronts to increase the usage of sports facilities at private sports clubs by eligible outside bodies.

39. The Committee queried whether the implementation of the "opening-up" requirement could genuinely provide greater access to eligible outside bodies to use the sports facilities operated by private clubs on PRL. Not only would such implementation create conflict between members of the clubs and eligible outside bodies, there appeared to be a serious mismatch between the demands of eligible outside bodies and the number of facility-hours committed by the clubs. In respect of the latter, a school would be discouraged from booking a certain club for holding competition if the club only committed a two-hour use of each of its sports facilities. Another example was that some clubs did not have the facilities to accommodate a large number of people.

40. **Chief Leisure Service Manager (Recreation & Sport)** responded that:

- although some clubs had limited facilities, there were other clubs which had extensive facilities to accommodate a large number of users at the same time. Hence, eligible outside bodies should book facilities from those clubs which could meet their sporting needs. In fact, a number of clubs were providing their facilities to schools and social organizations in conducting training or competition;
- for clubs which had extensive facilities, the HAB would not approve their "opening-up" schemes, if they only agreed to open up their facilities separately at different time periods; and
- there was a condition in the renewed PRLs allowing the Secretary for Home Affairs to impose new or revised requirement(s) on the lessees to further open up their facilities by giving a three-month prior notice.

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41. **Deputy Secretary for Home Affairs (2)** supplemented that although the renewed PRLs required the lessees to further open up their sports facilities to eligible outside bodies, the lessees could open up their sports facilities to other members of the public if they so wished. Having regard to the experience gained from the implementation of the "opening-up" requirement, the HAB would not rule out requiring the lessees to open up their sports facilities to other outside bodies or members of the public.

42. Responding to the Committee's enquiry on the measures taken by the HAB to increase the usage of private sports clubs' sports facilities by eligible outside bodies, **Chief Leisure Service Manager (Recreation & Sport)** advised that:

- when renewing the PRLs that had expired in 2011 or 2012, lessees were asked to provide the following information regarding their approved "opening up" schemes on their websites:
 - (a) facilities and time sessions available, fees and charges, and application requirements for use of facilities by eligible outside bodies;
 - (b) facilities and time sessions available, fees and charges, and application requirements for use of facilities by players or representative squads of NSAs;
 - (c) application requirements for the staging of international events; and
 - (d) details of the junior membership schemes.

Such information would also be uploaded to the websites of the HAB and the competent authorities concerned;

- to date, 47 approved "opening-up" schemes had been uploaded to the websites of the HAB and the competent authorities concerned;
- competent authorities were also asked to advise eligible outside bodies directly of the availability of sports facilities for hire on the lessees' premises and to give detailed information on the approved "opening-up" schemes to these bodies;

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- detailed information on the approved "opening-up" schemes was also given to all of the 18 District Offices of the Home Affairs Department and the Sports Federation & Olympic Committee of Hong Kong, China for onwards transmission to their stakeholders;
- to make it easier for eligible outside bodies to book sports facilities run by private sports clubs, eligible outside bodies could now approach the clubs directly rather than having to go through a competent authority; and
- advertisements were placed in the print media to publicize the availability of sports facilities on premises operated under the PRLs.

43. At the request of the Committee, **Secretary for Home Affairs** provided, after the public hearings, details of the advertisements placed in the print media to publicize the availability of sports facilities on premises operated under the PRLs (in *Appendix 15*).

44. Responding to the Committee's enquiry as to whether NGOs which were not subvented by the Government could book sports facilities run by private sports clubs on PRL, **Chief Leisure Service Manager (Recreation & Sport)** said that:

- the HAB had all along been encouraging lessees of PRLs to open up their grounds and sports facilities to NGOs not falling within the definition of "eligible outside bodies", such as Mother's Choice and socially disadvantaged groups. As indicated in the quarterly reports submitted by private sports clubs on PRL, some of them had opened up their venues and facilities to organizations, which were not eligible outside bodies, at low cost; and
- if non-subvented NGOs would like to use the sports facilities run by private sports clubs, they should contact the clubs for hiring the use of their facilities.

45. According to 3.17 of the Audit Report, despite the fact that the "3 × 3" access requirement has been effective since 1979, there was no definition in the 1979 Report of how the "3 × 3" access requirement was to be calculated (e.g. whether the "3 × 3" access requirement was directed to individual facilities or the entire set of facilities). In fact, in the past 30 years, the HAB had not provided the private sports

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clubs with a clear definition of how the "3 × 3" access requirement was to be calculated, and the clubs had also made no enquiries. That is, over the past 30 years, there had not been any clarifications or enforcement of the "3 × 3" access requirement. Noting the extremely low level of usage of private sports clubs' sports facilities by eligible outside bodies mentioned in paragraph 38 above, the Committee queried whether the Secretary for Home Affairs had failed to perform his duty for overseeing PRLs in supporting the renewal of 10 PRLs held by private sports clubs.

46. **Secretary for Home Affairs** disagreed that he had failed to perform his duty for overseeing PRLs in supporting the renewal of 10 PRLs held by private sports clubs for the following reasons:

- the extent of how the sports facilities of private sports clubs had been used by eligible outside bodies was only one of the factors in considering PRL renewals. Other factors included legal advice, the demand for and supply of sports facilities, the investments that private sports clubs had made over the years and the expectation of their members. In fact, most of the private sports clubs had opened up their sports facilities for use by eligible outside bodies at low cost under the "3 x 3" excess requirement and the number of usage hours had sometimes exceeded the said requirement;
- to his understanding, no LegCo Member had requested the Administration not to renew the PRLs that had expired in 2011 or 2012; and
- having regard to LegCo Members' views on private sports clubs with land granted under PRLs, the HAB had exercised due diligence by recommending the implementation of the "opening-up" requirement which was endorsed by ExCo in July 2011.

47. **Deputy Secretary for Home Affairs (2)** and **Chief Leisure Service Manager (Recreation & Sport)** supplemented that:

- as the "3 × 3" access requirement only required lessees to open up their sports facilities for use by eligible outside bodies for no more three sessions of three hours each week (except weekends and public holidays), the HAB therefore did not define how such requirement should be calculated;

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- despite the fact that there was no definition on how the "3 × 3" access requirement was to be calculated, there was quite considerable usage by eligible outside bodies since the implementation of the requirement in 1979 because many of these bodies applied to the clubs for hiring of their facilities, instead of applying via a competent authority or the HAB;
- it was difficult to have a clear picture of the extent to which the eligible outside bodies had used the private sports clubs' facilities under the "3 x 3" access requirement, as there was no condition in the lease requiring the clubs to keep records of such usage and the clubs generally did not keep good records of such usage; and
- with the implementation of the new "opening-up" requirement endorsed by ExCo in July 2011, coupled with the improved publicity mentioned in paragraph 42 above, usage of the sports facilities run by private sports clubs on PRL should be further improved. Under the new "opening-up" requirement, not only were lessees of PRLs that had expired in 2011 or 2012 required to submit for HAB's approval their "opening-up" schemes for use by eligible outside bodies at 50 hours per month or more (instead of the current condition of "no more than three sessions of three hours per week"), they were also required to submit quarterly reports, in a template form, to the HAB on usage under the approved "opening-up" schemes. The latter arrangement had been implemented by the clubs since the last quarter of 2012 on a voluntary basis for leases still bound by the old lease conditions, but would become a lease condition when their PRLs had been renewed.

Monitoring of the approved "opening-up" schemes

48. **Chief Leisure Service Manager (Recreation & Sport)** advised that:

- in November 2011, the HAB began to invite lessees of PRLs that had expired in 2011 or 2012 to submit their proposed "opening-up" schemes for consideration and approval by the HAB;
- since October 2012, lessees of PRLs that had expired in 2011 or 2012 were asked to submit quarterly reports on the utilization of their sports facilities to the HAB. Information to be provided was as follows:

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- (a) use of facilities by eligible outside bodies, members of lessees and organizations other than eligible outside bodies;
 - (b) nature and details of use, for instance, date of use, name of user, nature of use and fee charged or waived; and
 - (c) cases where applications from eligible outside bodies to use the facilities had been rejected and the relevant details;
- lessees of PRLs that had expired in 2011 or 2012 had submitted their quarterly reports to the HAB, even if their PRLs had not yet been renewed; and
 - all competent authorities were also asked to submit the following information in their quarterly returns to the HAB:
 - (a) use of facilities by eligible outside bodies;
 - (b) nature and details of use, for instance, date of use and name of user; and
 - (c) results of applications from eligible outside bodies to use the facilities.

49. The Committee queried whether requiring lessees of PRLs that had expired in 2011 or 2012 to submit quarterly reports could ensure compliance with the approved "opening-up" schemes. The Committee noted from paragraph 3.23 of the Audit Report two examples of questionable usage by eligible outside bodies reported by clubs. One example, i.e. Example 6, was that a club reported that its facilities had been used by eligible outside bodies for 709 hours in March 2013. Audit however found that the 709 hours included four hours of the children's playground (which was not a type of sports facility included under the approved "opening-up" scheme) used by an NGO. Another example, i.e. Example 7, was that a club reported that its facilities had been used by eligible outside bodies for 97 hours in March 2013. Audit however found that the reported usage was related to usage by two private organizations, which were not eligible outside bodies.

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50. **Chief Leisure Service Manager (Recreation & Sport)** responded that:

- since November 2011, the HAB had been explaining to all 51 lessees of PRLs that had expired in 2011 or 2012, including the 23 lessees of PRLs held by private sports clubs, the further "opening-up" arrangement of the PRLs through the holding of three briefing sessions and other means, such as meetings and email;
- based on the quarterly reports received so far, the HAB noticed that some clubs still had difficulty in understanding what information should be provided in the reports. The HAB's preliminary view was that the clubs did not intentionally falsify the information to be provided in the quarterly reports;
- initial guidelines on reporting on the "opening-up" schemes were issued to private sports clubs in October 2012. The HAB had since received feedback from private sports clubs and plan was in hand to issue revised guidelines by mid-2014;
- if a lessee failed to submit quarterly reports in an accurate and timely manner, the HAB would in the first instance issue a warning letter. In cases of repeated or intentional failure to comply with the reporting requirement, the HAB would consider the case for enforcement action under the lease conditions. The HAB would consider in more detail the issues of penalties for breaching lease conditions in the context of the comprehensive PRL policy review; and
- to improve the monitoring process, the HAB was securing funds to set up an electronic database, and would conduct random checks and act on complaints. If lease enforcement action was justified, the HAB would follow up with the relevant enforcement authority.

51. The Committee considered that merely analyzing the quarterly reports submitted by lessees of PRLs might not be sufficient to ensure the accuracy of the reported usage.

52. **Chief Leisure Service Manager (Recreation & Sport)** advised that the HAB had started verifying the reported usage. The first renewal of a PRL by a private sports club took effect from March 2013, and the HAB was gathering

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experience in recording the reported usage. The HAB aimed to put in place a systemic approach in verifying the reported usage by mid-2014.

D. Monitoring of compliance with lease conditions

53. According to the 1968 and 1979 Review Reports endorsed by ExCo, the private sports clubs should only provide reasonable facilities to meet social functions and other recreational uses ancillary to the main objects. However, according to paragraph 2.9(b) of the Audit Report, such non-sports facilities on the PRL sites include restaurants, bars, mahjong rooms, massage/sauna rooms, foot reflexology rooms, barber shops and private rooms, and the clubs very often earned significant revenues from operating, say, food and beverage services on the PRL sites which were granted to them at nil or nominal premium. The Committee considered that in the absence of a clearly-defined permitted use of the PRL sites, coupled with the absence of any planning standards for use amongst the various recreational, social and ancillary facilities, the clubs could operate a very wide range of sports and non-sports facilities on the PRL sites. Examples 1 and 2 referred to in paragraph 2.9 of the Audit Report were cases in point.

54. **Deputy Secretary for Home Affairs (2)** responded that:

- it was recommended in the 1968 and 1979 Review Reports endorsed by ExCo that a common sense approach should be adopted on the use of PRL sites for non-recreational purposes in that no fixed proportion could or should be laid down in respect of land used for recreational and ancillary purposes because circumstances surrounding individual clubs varied and depended on the nature of the clubs, their membership and other factors;
- in cases where the Lands D was in doubt as to whether the use of PRL sites for non-recreational purposes was reasonable, the HAB would give its views and would also seek legal guidance as to what might be considered a reasonable extent of ancillary facilities on a case-by-case basis;
- it had always been the policy of the HAB that it would not support an application for PRL renewal until the lessee had rectified any breaches of the lease conditions, including excessive provision of ancillary facilities on the site. For instance, the application for PRL renewal by

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the club referred to in Example 1 was still under "hold-over" arrangement, albeit the HAB approved its "opening-up" scheme; and

- in response to the audit recommendation, part of the comprehensive review of the PRL policy was to draw up a set of assessment guidelines to ensure reasonable apportionment of PRL sites.

55. **Director of Lands** supplemented that:

- whilst the existing PRLs did not clearly define the permitted recreational purposes for which the leases were granted, the Special Conditions to the PRLs did prohibit the use of land for non-recreational purposes such as holding meetings, rallies or assemblies of a political nature, for commercial purposes or for commercial advertising;
- to better enable Lands D staff to determine whether the apportionment of PRL sites used for recreational and ancillary facilities was reasonable, the Lands D would work with the HAB to develop a set of assessment guidelines to ensure reasonable apportionment of PRL site; and
- whether, and if so, how the existing lease conditions governing the use of the PRL sites should be more clearly defined would be considered in the context of the comprehensive review of the PRL policy. If implemented, such revised conditions would only impact the renewal of PRLs that expired after 2014.

56. According to paragraph 4.8 of the Audit Report, although the HAB is the policy bureau for PRLs, the Conditions of Grant have not laid down the requirement for the HAB to approve the facilities to be provided on PRL sites and to ensure that only a reasonable proportion of the land on PRL sites was used for social and ancillary facilities. There is also no requirement that the HAB must satisfy itself that the developments on the site have continued to meet the permitted use of the grant before policy support is given for the renewal of the PRL. Audit further noted that the scope and responsibility for monitoring permitted use and conducting site inspections have not been clearly defined between the HAB and the Lands D. The Committee enquired about the existing delineation of responsibilities between the HAB and the Lands D in monitoring the compliance of lease conditions.

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57. **Secretary for Home Affairs** responded that:

- the HAB had working level exchanges with the Lands D on issues relating to the PRL policy, such as the opening-up of the sports facilities for use by eligible outside bodies and the use of the PRL sites for their intended purposes; and
- part of the comprehensive review of the PRL policy was to examine how the lease conditions in the existing PRLs could be made clearer to better delineate the scope and responsibility between the HAB and the Lands D in the monitoring of lease compliance.

58. **Deputy Secretary for Home Affairs (2)** supplemented that:

- as a policy bureau, the HAB was not equipped to conduct regular on-site inspections to identify unauthorized building works or verify compliance with works-related orders, and would rely on the expertise of the professional departments, such as the Lands D and the Buildings Department, to take the enforcement actions where warranted. If required, these professional departments would bring the matter to HAB's attention and seek clearer policy guidance where necessary;
- the HAB would closely monitor the usage of sports facilities on PRL sites, in particular with regard to the requirement to give greater access to eligible outside bodies in accordance with the approved "opening-up" schemes. Using the quarterly reports as a key monitoring tool, the HAB would follow up with lessees in cases of low utilization and would conduct random checks on the accuracy of the quarterly reports as appropriate; and
- the Administration would examine how the existing mechanism to monitor the use of PRL sites could be strengthened in the course of the comprehensive review of the PRL policy.

59. The Committee noted that without regular site inspections of the land under the PRLs by either the HAB or the Lands D, the Government had not been able to timely detect non-compliance with the Conditions of Grant. Such suspected non-compliances included one private sports club which had hired out boat storage/mooring spaces on the PRL site for monthly hiring fees to government departments (paragraph 8 of Example 12 in paragraph 4.13 of the Audit Report

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refers); and at least two private sports clubs which had installed radio base stations on the PRL sites and received licence fee income for such installations as reported in their audited accounts (Example 13 in paragraph 4.13 of the Audit Report refers).

60. **Director of Lands** advised that:

- under the existing arrangements, the Lands D did not conduct regular inspections to the PRL sites to ensure that the land was being used for the intended purpose. However, Lands D staff were required to carry out inspections when they received complaints/referrals or when the PRLs were due for renewal and submissions had to be made to the District Lands Conference; and
- the Lands D would work with the HAB on implementing a more rigorous inspection requirement to PRL sites to ensure that the lands were used in accordance with lease conditions. Opportunity would also be taken to better rationalize the respective scope and responsibility of the Lands D and the HAB in ensuring compliance of lease conditions by lessees.

61. **Director of Lands** further advised that:

- based on the information provided by the concerned government departments, the club as referred to in paragraph 8 in Example 12 had been requested to provide explanation of their arrangements with the departments concerned. The Lands D would follow up when a reply was received from the club; and
- as for the installation of radio base stations as referred to in Example 13, upon the Lands D's request, the club had recently provided relevant information including details of the club's licence agreement with each of the operators. Based on the information provided, the Lands D considered that the grantee concerned had breached the lease condition on restriction on alienation. A letter had been issued to the club demanding the club either to remove the radio base stations or to submit a waiver application; and if approved, would be subject to waiver fees to be imposed by the Lands D.

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62. The Committee noted from paragraph 2.10 of the Audit Report that whereas many of the private sports clubs were providing various types of sports and non-sports facilities on the PRL sites, Audit found that at least two clubs were not making effective use of the PRL sites. For example, the club in Example 3 mainly provided a barbecue area on the PRL site. The Committee enquired whether the Administration would take back the PRL sites if the sites were not used as intended.

63. **Deputy Secretary for Home Affairs (2)** responded that:

- in the recent round of PRL renewals, two PRLs held by organizations other than private sports clubs were not renewed because the sites were no longer being used for sports and recreational purposes; and
- the HAB had taken on board the audit recommendation to strengthen the co-ordination between the HAB and the DEVB when considering a PRL renewal to ensure whether the site in question should be taken back for a public purpose.

64. **Chief Leisure Service Manager (Recreation & Sport)** supplemented that the HAB was well aware of the case in Example 3 and discussion was being held with the lessee on how the site should be opened up for use by eligible outside bodies. If the "opening-up" scheme proposed by the lessee was not approved by the HAB, its application for renewal would not be supported by the HAB. Whilst the Administration had the right to take back the whole or part of the site referred to in Example 3 if the site was not being used or under-utilized, it was too early to exercise such right at this stage as the discussion with the lessee on the "opening-up" arrangement was still ongoing.

65. Noting that Lands D staff were required to carry out inspections to the PRL sites when the PRLs concerned were due for renewal, the Committee enquired whether the inspection also covered how the land was utilized for providing sports and recreational facilities.

66. **Director of Lands** explained that the main purpose of site inspection was to check whether the PRL sites were used as intended and whether there were additions and alterations to buildings and structures. However, incorporating the extent the land was used for its intended purposes in the inspection plan would be considered in the context of the comprehensive review of the PRL policy.

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67. According to paragraph 5.4(d) of the Audit Report, about one half of the land held under the PRL granted to a gun club is situated in a Country Park. The Committee noted that instead of erecting a fence to separate the PRL site from other parts of the Country Park, the club only erected warning signs to warn the public not to enter the PRL site as required under the lease condition. In the absence of proper fences erected to separate the PRL site from other parts of the Country Park, the Committee was concerned that this might constitute a threat to the safety of the visitors to Country Park.

68. **Director of Lands** responded that:

- the PRL was first granted to the gun club in 1961, i.e. before gazettal of the current boundary of the Country Park in 1979;
- since 1979, the PRL had been renewed twice (in 1986 and 1995 respectively) and an in-situ land exchange (with reduced site area) was made in 2000 to enlarge the safety buffer zone of the club's shooting range in order to fulfil the licensing safety requirement set by the Hong Kong Police Force ("HKPF"). On all three occasions, the Lands D had consulted the relevant B/Ds (e.g. the Agriculture, Fisheries and Conservation Department), and no objections to the renewals of the PRL and the land exchange had been raised. As a result, the encroachment onto the Country Park had remained status quo for over 30 years; and
- the Lands D would continue to follow up with the relevant parties on the feasibility of erecting a fence to separate the PRL site from other parts of the Country Club. In so doing, due regard would be given to striking a balance between safeguarding public safety and not creating barrier for public access to the Country Park.

69. **Chief Leisure Service Manager (Recreation & Sport)** supplemented that the HAB would not give support to renew the PRL of the gun club, if the HKPF was not satisfied with the safety measures put in place to safeguard public safety.

70. The Committee noted from paragraph 2.20 of the Audit Report that in September 1999, a club was granted a new PRL for 21 years (1999 to 2020) at a premium of \$1,000. The new PRL, involving a site area of some 170 hectares in the North District, was granted to replace an old lease and a short term tenancy ("STT"), with the latter previously let out to the club at market rental. The Committee

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enquired about the justifications for subsuming the STT as part and parcel of the PRL, as by subsuming the STT into the PRL, the Government had foregone annual rentals of some \$0.8 million from the club.

71. **Director of Lands** responded that:

- the granting of the PRL to the club in September 1999 was to rationalize various land holdings held by the club, and the Lands D had obtained policy support from the HAB; and
- the Lands D estimated that from converting the old lease and the STT to a PRL, the total annual rental to be received by the Government would increase from \$0.8 million to \$1.5 million, which would rise "with increases in rateable value" of the site.

72. **Secretary for Home Affairs** agreed that in future cases involving large site area and/or peculiarities, the Administration should seek the advice of ExCo before granting the PRL.

E. Way forward

73. At the request of the Committee, **Secretary for Home Affairs** provided a timetable for taking forward the audit recommendations set out in paragraphs 5.8 and 5.9 of the Audit Report in *Appendix 16*.

F. Conclusions and recommendations

74. The Committee:

Overall comments

- notes that:
 - (a) for many years, owing to limited public recreational and sports facilities in Hong Kong, the Government has granted lands at nil or nominal premium to private sports clubs on "private recreational leases" ("PRLs") to develop sports and recreational

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facilities for use by their members. In granting land at nil or nominal premium under the PRL policy, the Government is in effect giving private sports clubs significant subsidies for the whole term of the lease;

- (b) private sports clubs on PRLs have become well established in Hong Kong after many years of development. Not only have they made contributions to the promotion of sports developments and supply of recreational and sports facilities in Hong Kong, they also help to attract overseas executives and professionals to work in Hong Kong and maintain Hong Kong's status as an international metropolis;
- (c) as at March 2013, 32 PRLs involving a total site area of some 430 hectares ("ha") were granted to 27 private sports clubs. These clubs have over 140 000 members, and they employ a total of over 6 200 full-time staff with a total annual operating expenditure of around \$5.7 billion;
- (d) the existing Government policy on PRLs is largely based on the recommendations of two Review Reports endorsed by the Executive Council ("ExCo") in 1969 and 1979 respectively;
- (e) based on the decision of ExCo in 1969, lessees of PRLs should open up their sports facilities for use by outside bodies when requested by the competent authorities (i.e. Directors/Heads of a few designated bureaux/departments ("B/Ds")). This policy was further elaborated by ExCo in 1979 to provide in the Special Conditions of the lease that the clubs should permit the use of the grounds and facilities by outside bodies for a maximum period of three sessions of three hours each per week ("3 x 3' access requirement"); and
- (f) to ensure Hong Kong's smooth transition to the People's Republic of China's sovereignty on 1 July 1997, all PRLs that expired prior to 1 July 1997 were renewed for a term of 15 years basically on the same terms and conditions as in their previous leases;

Review of the PRL policy

- finds it unacceptable and inexcusable that:
 - (a) the Home Affairs Bureau ("HAB") had failed to adequately pursue the policy decisions endorsed by ExCo in 1969 and 1979 on the need to clearly define the permitted recreational purpose in the PRLs and that the clubs should only provide reasonable facilities to meet social functions and other recreational uses ancillary to the main objects;
 - (b) with the permitted use of the PRL sites not having been clearly defined and planning standards not having been laid down on how the PRL site was to be apportioned for use amongst the various recreational, social and ancillary facilities, clubs can operate a very wide range of non-sports facilities, such as restaurants, bars, mahjong rooms, massage/sauna rooms, foot reflexology rooms, and barber shops, on the PRL sites as illustrated in Examples 1 and 2 in the Director of Audit's Report ("Audit Report");
 - (c) although all PRLs contain a requirement for the clubs to open up their facilities for use by eligible outside bodies since 1979, there was inadequate publicity and consequently no usage had been arranged through the competent authorities over the years; and
 - (d) there was no clear definition of how the "3 x 3" access requirement was to be calculated nor had the requirement been enforced, for instance, no criteria or procedures had been laid down with the competent authorities for vetting applications from eligible outside bodies, and the private sports clubs were not required to regularly report the usage of their facilities by eligible outside bodies to facilitate monitoring;
- notes that:
 - (a) in July 2011, ExCo endorsed that PRLs should be renewed in accordance with the 1979 policy decisions, subject to the clubs having met various renewal criteria, including submitting for the HAB's approval their scheme to open up their facilities to the use of outside bodies to 50 hours per month or more ("the opening-up schemes") and the submission of quarterly reports on usage under the approved schemes;

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- (b) the HAB only started to conduct a comprehensive review of the PRL policy in September 2013, although seven PRLs that expired in 2011 or 2012 had already been renewed by that time (with three more PRLs having been renewed between September 2013 and November 2013). The review will take account of factors such as sports development needs, land use considerations, the overall utilization of the sites, the interests of PRL lessees and their members and the wider public interest. The HAB expects to come up with a way forward for the policy by end 2014;
 - (c) to provide a consistent and equitable treatment of all PRL renewals that expired in 2011 or 2012, the comprehensive review of the PRL policy will not cover the current round of lease renewals of the remaining 13 PRLs that expired in 2011 or 2012; and
 - (d) in order that the outcome of the long-term review would not be prejudiced by the lease renewal exercise in (b) above, the PRL lessees would be advised that there should be no expectation that their leases would be further renewed upon expiry in 15 years, or that even if it would be further renewed, it might not continue to be renewed at nil or nominal premium or on the same terms and conditions as contained in the renewed leases;
- finds it unacceptable and inexcusable that the HAB planned to start to conduct a comprehensive review of the PRL policy only after it has completed the formal renewal process for the PRLs that expired in 2011 or 2012, despite the facts that:
- (a) ExCo was informed by the Administration in 1969 that the Government would review the PRL policy from time to time to ensure that public interest continued to be served;
 - (b) as early as 2002, questions urging the Administration to conduct a review of the PRL policy were raised by Legislative Council ("LegCo") Members at Council meetings and by the LegCo Panel on Home Affairs; and
 - (c) a motion, urging the Administration to renew PRLs for a shorter period of three to five years, pending completion of a review of the terms and conditions of the PRLs to allow greater access to the

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outside bodies, was passed by the LegCo Panel on Home Affairs on 8 July 2011;

- finds it unacceptable and inexcusable that the HAB's prolonged delay in conducting a comprehensive review of the PRL policy to ensure that the public interest is served and its lax attitude in taking forward the PRL policy of providing eligible outside bodies access to the private sports clubs' facilities have not only deprived eligible outside bodies from using the private sports clubs' facilities, such inadequacies have also shortchanged members of the private sports clubs who thought that their entrance fees and monthly subscriptions, some of which were significant sums, had bought them exclusive or priority use of the clubs' facilities;
- considers that whilst private sports clubs' contributions should be recognized and the right of their members to priority use of their facilities should be respected, the clubs should benefit the public by making available their facilities for use by non-members;
- urges that in renewing the PRLs for a 15-year term, the HAB should ensure that the following conditions of the prevailing PRL policy are met:
 - (a) the site not being required for a public purpose;
 - (b) there being no significant breach of lease conditions;
 - (c) the lessee having a non-discriminatory membership policy; and
 - (d) the HAB having approved the "opening-up" scheme submitted by the lessee for fulfilling the greater access requirement;

Implementation of the "opening-up" requirement

- finds it unacceptable and inexcusable that the implementation of the approved "opening-up" schemes:
 - (a) is merely a compromise to allow the private sports clubs to continue to exist and to convince the public that the clubs' repayment to society matches the resources they have enjoyed, having regard to the fact that the clubs' "Members only" policy is in essence in conflict with the Government's objective of opening

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up more of the clubs' facilities to non-members to better serve the public interest; and

- (b) does not imply that the usage of the private sports clubs' sports facilities by eligible outside bodies will necessarily increase, having regard to a number of factors which might discourage eligible outside bodies from using the clubs' facilities: private clubs are generally perceived to be for use by rich or well connected people; the limited scale and range of sports facilities of some clubs cannot support the further or extensive opening up of their facilities and the locations of some clubs are not easily accessible;
- urges the HAB to:
 - (a) expeditiously come up with detailed guidelines to help private sports clubs report the scheme usage in their quarterly reports submitted to the HAB; and
 - (b) set up a proper mechanism to verify the reported usage of the clubs' sports facilities by outside bodies;

Monitoring of compliance with lease conditions

- finds it unacceptable and inexcusable that:
 - (a) the Lands Department ("Lands D") would only conduct inspections on private sports clubs to ensure that the sites are being used for the intended purposes when it receives complaints/referrals or when the PRLs are due for renewal. In other words, in cases where there were no complaints/referrals during the lease period, inspections would only be conducted at intervals of 15 years; and
 - (b) without regular site inspections of the land under the PRLs by either the HAB or the Lands D, the Government had not been able to timely detect non-compliance with the Conditions of Grants as illustrated in the following examples in the Audit Report:
 - (i) in Example 12, one private sports club was found for hosting on the PRL site wedding banquets/dining functions for members of the public and another club was found to have

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leased storage/mooring spaces on the PRL site to government departments;

- (ii) in Example 13, one private sports club was found to have breached the lease condition on restriction on alienation by failing to first obtain a waiver from the Lands D before allowing the installation of radio base stations on the rooftop of the club's premises which was used for commercial purposes;
- (iii) in Example 14, master plans and building plans for one PRL granted to a private sports club had not been approved by the Lands D since 1995, but the club still proceeded with the building works; and
- (iv) in Example 15, the Lands D had not monitored one private sports club's compliance with one of the lease conditions to permit local visitors to use the golf course on weekdays (subject to an overall limit of 10% of its capacity);

- notes that:

- (a) the HAB and the Lands D have undertaken to clearly define the scope and responsibility between them in conducting inspections on PRL sites and to formulate plans on how such inspections should be conducted on a routine basis; and
- (b) to ensure the effectiveness of monitoring the use of the PRL sites, the Lands D has undertaken to, in collaboration with the HAB, draw up Practice Notes to help assess how PRL sites should in future be reasonably apportioned amongst sports and non-sports facilities to meet the purpose of the PRLs; and

- urges the HAB and the Lands D to expeditiously implement the aforesaid improvement measures to safeguard public interests.

Specific comments

75. The Committee:

Government policy decisions in 1969 and 1979

- notes that:

- (a) as at 31 March 2013, there were 69 PRLs which included 32 PRLs granted to 27 private sports clubs, with four of them holding two or more PRLs each. Of these 32 PRLs, 23 PRLs had expired in 2011 or 2012, but none of them had been renewed in early March 2013. However, as at November 2013, 10 PRLs had been renewed with the remaining 13 PRLs still under "hold-over" arrangement;
- (b) the HAB is the Government's policy bureau for overseeing PRLs. In particular, it is responsible for policy issues on the grant and renewal of PRLs. The Lands D supports the HAB in administering the PRLs; and
- (c) the existing PRL policy was primarily established based on the recommendations of two Review Reports, one issued in 1968 and another in 1979, both of which were endorsed by ExCo in 1969 and 1979 respectively, including the adoption of the "Special Conditions for Recreation Club Grants" ("the 1979 Special Conditions") as attached to the 1979 Report;

- finds it unacceptable and inexcusable that:

- (a) no comprehensive policy review of the PRL policy had been conducted since 1979, notwithstanding the increasing problem of land shortage in Hong Kong in recent years, and that the Administration had informed ExCo as early as 1969 that the Government would conduct comprehensive reviews of the PRL policy at suitable intervals as the public interest required and some LegCo Members had made a number of suggestions on the PRL policy as early as 2002;
- (b) the 1969 and 1979 policy decisions on the need to clearly define the permitted recreational purpose in the PRLs had not been

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adequately pursued for implementation. In particular, despite the fact that the 1968 Report and 1979 Report had recommended that the recreational purpose for which the PRL was granted should be defined in the Special Conditions of the lease, Audit Commission ("Audit") has found that today, 16 of the 32 PRLs are still granted to private sports clubs for use as a "Recreation Club", a "Sports and Recreation Club", a "Country Club" or a "Community Centre". Although the 1968 Report stated that confining the use of the grounds to purposes defined in the Memorandum and Articles of Association ("M&As") of the clubs had certain weaknesses as a means of control and would render the Government's control ineffective, Audit found that 14 of the 32 PRLs are permitted to use the PRL sites for such other purposes as defined in the clubs' M&As;

- (c) notwithstanding that the 1968 Report and 1979 Report had recommended that the private sports clubs should only provide reasonable facilities to meet social functions and other recreational uses ancillary to the main objects, it transpired that owing to the absence of a clearly-defined permitted use of the PRL sites in (b) above, coupled with the absence of any planning standards developed by the Administration on how land held under the PRLs should be apportioned for use among the various recreational, social and ancillary facilities, many of the private sports clubs today are providing multifarious types of sports and non-sports facilities on the PRL sites. Such non-sports facilities include restaurants, bars, mahjong rooms, massage/sauna rooms, food reflexology rooms, barber shops and private rooms, and the clubs' revenues generated from operating some of these non-sports facilities, particularly from food and beverage operations, were very often significant;
- (d) although the Lands D is empowered to approve developments on PRL sites, yet because of the absence of a clearly-defined permitted use of the PRL sites and the absence of any planning standards to guide on how the PRL site was to be apportioned, it was noted that Lands D staff had difficulties in assessing whether the developments on the PRL site had met the Government's intended purpose and whether the apportionment of land for use amongst various sports and non-sports facilities was reasonable;

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- (e) an effective mechanism is not in place within the Government to monitor the use of the PRL sites. Unlike private treaty grants ("PTGs") for other purposes (such as PTGs granted for the development of private hospitals), no lease requirement is laid down for the HAB as the policy bureau to approve the facilities to be provided on the PRL sites; and
 - (f) whilst many of the private sports clubs are providing various types of sports and non-sports facilities on the PRL sites, there are clubs which are not making effective use of the PRL sites. For example, the club in Example 3 referred to in paragraph 2.10 of the Audit Report is occupying a site area of over one ha by the seaside in the New Territories, but the PRL site was mainly used by club members for barbecue only. Similarly, the club in Example 4 referred to in paragraph 2.10 of the Audit Report is also occupying a site area of over one ha in the urban areas, but has only some 200 members and its sports facilities either have low usage or have been closed for repair;
- finds it unacceptable and inexcusable that, in the absence of an effective mechanism in place for monitoring the use of the PRL sites, the private sports clubs on PRL sites are enjoying much freedom in the use of the Government land granted to them at nil or nominal premium, albeit some are not making effective use of the PRL sites;
 - finds it unacceptable and inexcusable that:
 - (a) notwithstanding that the 1968 Report stated that the private sports clubs ought to expand their membership and increase the extent of the use to which their grounds were put, today, as shown in Table 1 in paragraph 2.14 of the Audit Report, some of the clubs still have limited numbers of members, with some even recording a reduction in their membership;
 - (b) although the 1968 Report stated that the Government should review the clubs' membership and ground usage from time to time to ensure that public interest was served, the HAB had rarely collected membership and usage information from the clubs for monitoring until more recently when most of the PRLs were about to expire. The reduction in the numbers of membership for some of the clubs on the PRL sites is also a cause for concern;

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- (c) some of the 1969 and 1979 policy decisions as endorsed by ExCo had not been properly followed through for implementation;
 - (d) in the case of the Club which is occupying a PRL site of over 100 ha in the New Territories, its number of members had declined since year 2000, but maintained at 2 500 since then for many years. As at 30 September 2013, the Club had some 3 300 debenture holders, but only 2 500 members, which means that some 800 debenture holders might have ceased to be members. Among the 2 500 members, some are not active as they have informed the Club of their desire to surrender their debentures, but might have to wait as long as 20 years before they can surrender their debentures. Some of the Club's facilities have low usage (e.g. 10% for its executive nine golf course); and
 - (e) the advice of ExCo was not sought when the Administration granted a new 21-year PRL involving a site area of some 170 ha in the North District to one Club in September 1999 to replace an old lease and a short term tenancy of 11 ha, with the latter previously let out to the Club at market rental, and to allow the Club to use the PRL site for residential purposes for club members and their families and guests which was deviated from the 1979 Special Conditions, as endorsed by ExCo, in that the lessees (including private sports clubs) "shall not use or permit the use of the lot for residential purposes other than for persons employed on the lot by the grantee";
- finds it unacceptable and inexcusable that, without the approval of ExCo, the HAB gave its policy support to the granting of the PRL to the Club in (e) above and to the deviations from the 1979 Special Conditions without any further elaborations of how they were justified from a recreation and sport angle, and that the Lands D kept to the accommodation provision previously included in the old lease without including the 1979 Special Condition which requires the lessee to submit Master Plans for any developments on the PRL site to the Director of Lands for approval;
 - expresses serious dismay and finds it unacceptable that, amidst the current environment when land is precious and scarce in Hong Kong, the HAB continued to adopt a lax approach in overseeing PRLs;

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- notes that the HAB has initiated a comprehensive policy review of PRLs in September 2013. During the review, consideration would be given to different development objectives, the public interest on various fronts, long-term policy objectives for sports and recreation, other potential uses of and revenue from the concerned lots, facilities and supporting hardware of the private sports clubs, as well as the interests of the lessees, their members and staff. Apart from the HAB, other policy bureaux and departments such as the Development Bureau ("DEVB"), the Lands D, the Planning Department and the Rating and Valuation Department are taking part in the review. Given the extensive scope and complicated nature of the review, the HAB expects preliminary results to be available by the end of 2014;

Implementation of the "opening-up" requirement

- notes that:
 - (a) in accordance with the 1969 and 1979 policy decisions, almost all PRLs contain a requirement for the clubs to permit the use of their grounds and facilities by eligible outside bodies for 3 sessions of 3 hours each per week ("the '3 × 3' access requirement") when required by the competent authorities;
 - (b) in July 2011, ExCo endorsed that the existing PRLs should be renewed in accordance with the 1979 policy decisions, subject to the clubs having met various renewal criteria, including the modified lease conditions on the provision of greater access to eligible outside bodies which include schools, non-governmental organisations receiving recurrent subvention from the HAB and the Social Welfare Department, national sports associations and Government B/Ds;
 - (c) according to the more recent Special Conditions in the lease, the clubs are required to submit for the HAB's approval their "opening-up" schemes and to submit quarterly reports on usage under the approved schemes; and
 - (d) although many of the PRLs had not yet been renewed, the HAB had approved the "opening-up" schemes for 20 of 23 PRLs which were in the process of renewal. In June 2013, the HAB also urged the clubs to start opening up their sports facilities to eligible outside bodies in line with the greater access requirement and to

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step up publicity even if their PRLs had not yet been renewed. Apart from the 10 PRLs which had been renewed and for which quarterly reporting of usage by eligible outside bodies is required as a lease condition, clubs for 13 PRLs did submit quarterly usage reports on a voluntary basis;

- notes that the HAB has started verifying the reported usage. The first renewal of a PRL by a private sports club took effect from March 2013, and the HAB is gathering experience in recording the reported usage. The HAB aimed to put in place a systemic approach in verifying the reported usage by mid-2014;
- finds it unacceptable and inexcusable that:
 - (a) in the past 13 years, the competent authorities had not regularly disseminated information about the availability of the clubs' facilities to eligible outside bodies and had not received any enquiries or requests from eligible outside bodies for using the private sports clubs' facilities. Not until mid-2012 did the HAB begin to publicize that eligible outside bodies might contact the clubs direct to book their sports and recreational facilities during designated time slots for sporting use;
 - (b) notwithstanding that the "3 × 3" access requirement has been effective since 1979, the HAB had not provided the private sports clubs with a clear definition of how the "3 × 3" access requirement was to be calculated and there had not been any clarifications or enforcement of the "3 × 3" access requirement; and
 - (c) a snapshot of the actual usage in March 2013 for the 20 approved "opening-up" schemes, based on the clubs' quarterly reports, shows that in most cases, the actual usage was far below the committed "opening-up" hours, as reported in Table 2 in paragraph 3.20 of the Audit Report, indicating that the HAB needs to continue stepping up its efforts to urge the clubs to promote the availability of their sports facilities;
- urges the HAB to step up its efforts to remind the clubs to promote the availability of their sports facilities;

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Monitoring of compliance with lease conditions

- notes that existing PRLs contain various salient Conditions of Grant which govern user restrictions, restrictions on redevelopment/new development of the site, restrictions on alienation and subletting on the PRL sites, some of which are regulated by other enforcement authorities (such as the Buildings Department). The Lands D however has a role to follow up such outstanding cases during the PRL renewal exercises by liaising with relevant enforcement authorities to ensure that they have been settled before the PRLs are renewed;
- finds it unacceptable and inexcusable that:
 - (a) neither the HAB nor the Lands D had conducted regular site inspections to ensure that land granted under PRL is being used for the intended purposes and is in compliance with the user and related conditions of the PRL;
 - (b) the scope and responsibility for monitoring permitted use and conducting site inspections have not been clearly defined between the HAB and the Lands D;
 - (c) during the current round of renewal exercise, the Lands D identified common breaches of the Condition of Grant in its site inspections and such common breaches included unauthorised buildings works, slopes not properly maintained, breaches of user restriction and encroachment on Government land; and
 - (d) without regular site inspections of the land under the PRLs by either the HAB or the Lands D, the Government had not been able to timely detect non-compliance with the Conditions of Grant. Such suspected non-compliances which Audit noted included the following:

Suspected commercial activities/subletting on PRLs

- (i) many of the social and ancillary facilities of the private sports clubs, such as restaurants, a bar, sports shops, barber shops, massage rooms, a foot reflexology shop, a beauty salon and a gymnasium, were provided by profit-making third parties;

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- (ii) significant revenues for food and beverage services provided by third parties were sometimes reported in the audited accounts of the clubs;

Hosting of wedding banquets/dining functions on one PRL site

- (iii) one private sports club had hosted some 90 wedding banquets for the public on the PRL site in the past five years;

Leasing of spaces on one PRL site to government departments

- (iv) one private sports club had hired out boat storage/mooring spaces on the PRL site for monthly hiring fees to two government departments;

Installation of radio base stations on PRL sites without Lands D's approval

- (v) at least two private sports clubs had installed radio base stations on the PRL sites and received licence fee income for such installations as reported in their audited accounts;

Development plans for one PRL site not yet approved by Lands D

- (vi) master plans and building plans for one PRL granted to a private sports club had not been approved by Lands D since 1995, but the club still proceeded with the building works; and

Public use of golf course on one PRL site

- (vii) green fees and fee revisions for public use of the golf courses on one PRL site had not always been approved by Lands D in accordance with the Conditions of Grant, and Lands D did not follow up with the club's omissions to submit the green fee proposal after 1994. In addition, Lands D had not taken steps to publicise the availability of public access to the golf courses and taken any measures to ensure that the club complied with the Conditions of Grant for allowing public use of the golf courses, up to a 10% ceiling of the club's playing capacity per day;

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- urges the Administration to establish a proper monitoring mechanism over PRLs to ensure the clubs' compliance with the Conditions of Grant and to safeguard public interest, including exploring the development of a set of guidelines on PRL conditions and rules which the clubs are expected to observe;
- urges the HAB to critically review the existing PRLs and improve the Conditions of Grant in the long term, taking into account the useful Conditions of Grant identified by Audit;
- notes that:
 - (a) the HAB will work with the Lands D and other Government departments to ensure that PRL sites are used in accordance with lease conditions;
 - (b) the HAB and the Lands D have undertaken to clearly define the scope and responsibility between them in conducting inspections on PRL sites and to formulate plans on how such inspections should be conducted on a routine basis; and
 - (c) to ensure the effectiveness of monitoring the use of the PRL sites, the Lands D has undertaken to, in collaboration with the HAB, draw up Practice Notes to help assess how PRL sites should in future be reasonably apportioned amongst sports and non-sports facilities to meet the purpose of the PRLs;

Way forward

- notes that:
 - (a) in the current round of PRL renewals, the existing PRLs would be renewed subject to their compliance with various criteria, namely the site not being required for a public purpose, there being no significant breach of lease conditions, the lessee having a non-discriminatory membership policy and the HAB having approved the "opening-up" scheme for the club to fulfil the greater access requirement;
 - (b) as at November 2013, 13 PRLs granted to private sports clubs were under "hold-over" arrangement and were at different stages

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of processing for renewal and they will have to be renewed primarily based on the 1979 policy decisions;

- (c) when considering whether a particular PRL should be renewed, the Lands D has been taking a co-ordinating role and would ask the relevant government departments (such as the Planning Department, the Buildings Department, the Highways Department, the Transport Department, etc) whether "the site is required for a public purpose", and in most cases, the latter would reply individually that they had no comment/objection. According to paragraph 5.4(a) of the Audit Report, such an approach to assess whether the PRL site would be required for a public purpose is too fragmented and a more coordinated approach is required in future to assess whether the PRL sites are or will be required for public purposes;
 - (d) the DEVB, as the policy bureau for land use planning, has agreed to support the HAB in the forthcoming PRL policy review and in assessing whether any of the PRLs due for renewal should be renewed; and
 - (e) for over 30 years, about half of the PRL site (involving three ha) granted to a gun club for shooting practices by the club members was situated in a Country Park, but the PRL site was not fenced off to separate it from other areas of the Country Park;
- urges the Secretary for Home Affairs to follow up on Example 16 referred to in paragraph 5.4(d) of the Audit Report which may constitute a threat to the safety of the visitors of the Country Park if the PRL site is allowed to continue overlapping with the Country Park;
 - notes that the HAB has agreed to:
 - (a) work in collaboration with the DEVB, the Lands D and other relevant B/Ds to complete its comprehensive review of the PRL policy by the end of 2014;
 - (b) take into account, in the forthcoming PRL policy review, the needs and demands of different stakeholders (namely, the interests of the private sports clubs on the PRLs and their members, and the wider public interest), and the audit observations and recommendations in the Audit Report;

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- (c) set up an effective mechanism to monitor the use of PRL sites, including the requirement to approve the developments on the PRL sites, drawing up planning standards to help assess how PRL sites should in future be reasonably apportioned among sports and non-sports facilities to meet the purpose of the PRLs and keeping the clubs' membership and their use of the PRL sites under regular review; and
 - (d) conduct a similar review of the 37 PRLs granted to non-governmental organizations and other organizations as mentioned in paragraph 1.3(b) to (e) of the Audit Report to ascertain if the Administration is facing similar problems and challenges ahead with these PRLs;
- notes that:
- (a) the Secretary for Home Affairs has accepted the audit recommendations in paragraphs 5.8 and 5.9 of the Audit Report, including that in future cases of sufficient importance, seek the advice of ExCo before granting the PRL;
 - (b) the Secretary for Development and the Director of Lands stand ready to contribute to the HAB's forthcoming PRL policy review;
 - (c) the Lands D will support the HAB in implementing policy decisions arising from the review and will work with the HAB in examining how best to monitor the uses of land under PRLs; and
 - (d) the Lands D will continue to follow up individual cases of irregularities/suspected non-compliances with Conditions of Grant identified in the Audit Report in conjunction with the HAB and other B/Ds as appropriate.

Follow-up action

76. The Committee wishes to be kept informed of the progress made in implementing the various audit recommendations; the effectiveness of the enhanced systems and procedures for coordinating, monitoring and regulating direct land grants made to private sports clubs at nil or nominal premium; and the results of the comprehensive review of the PRL policy.

A. Introduction

The Audit Commission ("Audit") conducted a review of the Administration's efforts in managing roadside skips.

Background

2. A skip is an open-top container of rectangular shape mostly made of iron. Very often, it is placed at roadside near a construction site or a building under renovation for temporary storage of construction and renovation waste removed from the site or building. Using skips for disposal of construction and renovation waste is an effective means to reduce environmental nuisance and facilitates the construction and fitting-out trades in disposing of such waste in a tidy and orderly manner.

3. In recent years, there has been a significant increase in the number of public complaints over the problems caused by roadside skips, including unlawful occupation of government land, nuisance and obstruction caused to neighbourhood and pedestrians, obstruction and safety risks posed to road users, damage to roads, and environmental and public hygiene problems.

4. The Committee held one public hearing on 2 December 2013 to receive evidence on the findings and observations of the Director of Audit's Report ("the Audit Report").

Declaration of interests

5. At the Committee's public hearing held on 2 December 2013, **Hon Abraham SHEK Lai-him** declared that he was a Member of the Legislative Council returned by the Real Estate and Construction functional constituency.

Opening statement by the Secretary for Development

6. **Mr Paul CHAN Mo-po, Secretary for Development**, made an opening statement at the beginning of the Committee's public hearing held on 2 December 2013, a summary of which is as follows:

Management of roadside skips

- the Development Bureau ("DEVB") and the Lands Department ("Lands D") agreed with the recommendations of the Audit Report. To address the issues caused by roadside skips, he, the Secretary for the Environment and the Secretary for Transport and Housing agreed to set up a working group ("WG") to jointly review the problems caused by skip operations and the effectiveness of the existing regulatory regime, and formulate action plans for regulating and facilitating skip operations; and
- as the problems caused by roadside skips were multi-faceted, the tentative plan would be to complete the review in a year.

The full text of the Secretary for Development's opening statement is in *Appendix 17*.

Opening statement by the Secretary for the Environment

7. **Mr WONG Kam-sing, Secretary for the Environment**, made an opening statement at the beginning of the Committee's public hearing held on 2 December 2013, a summary of which is as follows:

- the Environment Bureau ("ENB") and the Environmental Protection Department ("EPD") agreed with the recommendations of the Audit Report. The ENB and the EPD would work with the DEVB and the Transport and Housing Bureau ("THB") to jointly examine the problems caused by roadside skips;
- before the results of the joint study became available, the EPD would collaborate with concerned government departments to step up publicity for the construction industry and associated transport trades and to jointly promote the adoption of the good work practices featured in the existing guidance on roadside skips; and
- the site inspections by the EPD indicated that the operation of roadside skips generally did not cause significant environmental nuisance. Where there were situations which indicated violation of the environmental protection legislation, enforcement action would be taken by the EPD.

The full text of the Secretary for the Environment's opening statement is in *Appendix 18*.

Opening statement by the Acting Secretary for Transport and Housing

8. **Mr YAU Shing-mu, Acting Secretary for Transport and Housing**, made an opening statement at the beginning of the Committee's public hearing held on 2 December 2013, a summary of which is as follows:

- it was the policy of the THB and the Transport Department ("TD") to promote and ensure road safety. From the traffic and transport management perspectives, skips were best placed in works sites rather than at roadside. However, the THB understood that operationally the relevant trades might not be able to place skips inside works sites or works areas;
- to reduce public nuisance caused by skips which might affect the smooth flow and safety of road traffic, the TD in response to the request of the Steering Committee on District Administration ("the Steering Committee") established under the Home Affairs Bureau ("HAB")¹, published in 2008 the Guidelines for Mounting and Placing of Skips ("TD Guidelines") to stipulate good practices for skip operation, with a view to reducing obstruction to pedestrian and vehicular traffic. Skip users of course had to comply with relevant legislation if they wanted to place their skips legally on government land, including roads. There was an established mechanism under the existing law to deal with illegally placed skips; and
- in order to better handle the problems caused by skips, the Government would set up a joint WG to follow up on the recommendations in the Audit Report. THB and TD would proactively support the joint WG by providing advice and assistance from the traffic and transport management perspectives.

The full text of the Acting Secretary for Transport and Housing's opening statement is in ***Appendix 19***.

¹ The Steering Committee was chaired by the Permanent Secretary for Home Affairs with members including the Commissioner of Police, the Director of Lands and the Commissioner for Transport.

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B. Government actions on regulating roadside skips

Effectiveness of enforcement actions against roadside skips

9. The Committee noted from the Audit Report that the existing enforcement actions taken by the Lands D and the Hong Kong Police Force ("HKPF") on roadside skips were not effective in that:

- although the Lands D could remove a skip under section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) ("the Cap. 28 Ordinance"), the Lands D needed to provide a 24-hour notice before removal action could be taken on a skip. Hence, a skip user could easily get around the Lands D's enforcement actions by moving a skip away from its original location before the expiry of a notice posted under the Cap. 28 Ordinance and moving the skip back to the same place again later. According to paragraph 3.8 of the Audit Report, between January 2008 and June 2013, the Lands D had posted a total of 4 125 notices under the Cap. 28 Ordinance on roadside skips, and had removed 29 skips (on average one skip in two months) which had remained on site after expiry of the notices. Of the 4 125 skips involved, 4 096 (99%) had been removed before the Lands D's re-inspections. Of the remaining 29 skips, the Lands D could only institute prosecution action in one case; and
- the HKPF would only remove skips under the common law and take prosecution actions on skips under section 4A of the Summary Offences Ordinance (Cap. 228) ("the Cap. 228 Ordinance"), if the skips were causing serious obstruction or imminent danger to the public on roads and pavements.

Roles of various Government departments

10. The Committee further noted that:

- in October 2001, the HKPF suggested that the TD should set up a system to monitor the movement and placing of skips (paragraph 3.2 of the Audit Report refers);
- in January 2007, the HAB set up the Steering Committee to enhance support amongst Government departments for district management work, including the regulation of roadside skips, as tackling problems caused

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by roadside skips required effective co-ordination among related Government departments (paragraph 3.3 of the Audit Report refers);

- relevant trade associations indicated at a meeting with the EPD and the TD in April 2007 that they preferred some kind of a permit system for regulating the placing of roadside skips to stepping up enforcement actions by the Government (paragraph 4.9(a) of the Audit Report refers);
- at a Steering Committee meeting in May 2007, the HKPF indicated that it welcomed the setting up of a permit system as the HKPF could then trace the skip owners in case of emergencies. At the same meeting, the Lands D was invited to explore the feasibility of setting up a permit system as a long-term measure for regulating the placing of roadside skips. The Lands D indicated at the meeting that an approach requiring skip operators to apply to the authority in advance for placing of skips could be explored with the relevant trade associations (paragraph 4.9 (b) and (c) of the Audit Report refers);
- at a Steering Committee meeting in February 2009, the TD said that it supported the regulation of roadside skips with a permit system and stood ready to provide professional advice from road safety and traffic management perspectives in processing permit applications (paragraph 4.9(e) of the Audit Report refers); and
- in February 2009, the Steering Committee considered that, on the grounds that the problems caused by roadside skips might not be serious to the extent warranting a legislative exercise to establish a permit system for regulating roadside skips, the Administration should first work within the existing statutory powers to tighten enforcement against roadside skips, and the setting up of a permit system would not be pursued. In May 2010, the Steering Committee concluded that the problem of roadside skips was in general under control and the issue would not be pursued at the Committee's meetings for the time being (paragraph 3.6 of the Audit Report refers).

11. The Committee was of the view that:

- there was no basis for the Steering Committee to conclude that the problem of roadside skips was in general under control and the issue of introducing a permit system to regulate and facilitate skip operations

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would not be pursued. According to Figure 1 referred to in paragraph 1.6 of the Audit Report, the total number of complaints over roadside skips handled by the HKPF and the Lands D increased from 645 in 2008 to 1 366 in 2012, representing a 112% increase; and

- the main reason why the introduction of a permit system to regulate and facilitate skip operations was not taken forward back in 2009 was because neither the Lands D nor the TD was willing to establish and administer the permit system. The Lands D considered that the regulation of roadside skips concerned road safety and regulation of road traffic, which did not fall within the Lands D's areas of expertise. The TD considered that skips were not "vehicles" in the context of the Road Traffic Ordinance (Cap. 374) ("the Cap. 374 Ordinance") in that a roadside skip was no different from a pile of building materials or unwanted furniture causing obstruction. Therefore, the subject of skips was essentially a land, not transport, issue.

12. The Committee urged that:

- the shirking of responsibility to establish and administer a permit system for regulating and facilitating roadside skips would not happen again in the joint review to address the issues caused by roadside skips;
- the THB should lead the WG with a view to introducing a permit system for regulating and facilitating skip operations, amongst other action plans, having regard to the facts that skips were most often placed at roadside and roadside skips caused obstruction and posed safety risks to road users and it was the policy purview of the THB and the TD to ensure smooth vehicular traffic and road safety; and
- the one-year working timeframe of the WG be shortened, as the HKPF had, as early as October 2001, suggested the setting up of a system to monitor the movement and placing of skips; and the Chief Secretary for Administration had said, at a meeting discussing street management issues with the HAB and the Home Affairs Department ("HAD") in January 2009, that a permit system for regulating the placing of roadside skips should be introduced (paragraph 4.9(d) of the Audit Report refers).

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13. **Acting Secretary for Transport and Housing** responded that:

- similar to other street management issues, the problems caused by roadside skips were multi-faceted and did not simply concern a road safety or traffic management issue. The THB would contribute to the work of the WG by providing advice and assistance from traffic and road safety perspectives;
- although the Cap. 374 Ordinance did not cover roadside skips, the HKPF would take enforcement actions on skips causing serious obstruction or imminent danger to the public. Besides, skip operators were advised to comply with the TD Guidelines, published by the TD in January 2008, stipulating good practices for skip operations focusing on measures to reduce public safety risks and obstruction to pedestrian and vehicular traffic;
- the THB, the DEVB and the ENB agreed with Audit that there was room for improvement in the management of roadside skips; and
- it was important to allow sufficient time for the WG to address the problems caused by roadside skips. Although the tentative plan would be to complete the review in a year, every effort would be made to expedite the process where practicable.

14. **Secretary for Development** and **Secretary for the Environment** assured the Committee that the Administration would strive to expedite the work of the WG as far as possible.

Establishment of a permit system to regulate and facilitate skip operations

15. The Committee noted from paragraph 3.3 of the Audit Report that since November 2003, the Lands D, the TD and the HAD had discussed street management issues including matters relating to roadside skips at various meetings. The Committee enquired whether the issue of introducing a permit system for regulating skip operations had been raised.

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16. In her reply to the Committee after the hearing (in *Appendix 20*), **Ms Bernadette LINN, Director of Lands**, stated that:

- as stated in paragraph 3.3 of the Audit Report, there had been a series of ad-hoc inter-departmental discussions (some by correspondence) on the handling of roadside skips between November 2003 and January 2004. The discussions preceded the establishment of the Steering Committee in early 2007. Those ad-hoc discussions involved mainly the Lands D, the HKPF, the TD and the Highways Department; and
- in the course of those discussions, it was agreed that the HKPF would take immediate action if the skip concerned was posing imminent danger to members of the public or causing serious obstruction on the road, whilst the Lands D would arrange posting of notice under the Cap. 28 Ordinance and subsequent removal of the skip if required for non emergency case. The rationale behind this agreement had not been documented in the file records. The Lands D believed the arrangement had taken into account limitations cited by other departments and what could possibly be done under existing laws.

17. In his reply to the Committee after the hearing (in *Appendix 21*), **Mr Andy TSANG Wai-hung, Commissioner of Police**, stated that:

- since October 2001, the HKPF raised the issue of skips placed on public roads suggesting the setting up of a system to monitor the movement and placing of skips on public roads; and
- in February 2004, subsequent to discussions at the then Team Clean² Ad-hoc Inter-departmental Meeting on Street Management, the HKPF agreed to take enforcement action against skips causing serious obstruction on a road or posing imminent danger to the public. Otherwise, all complaints would be referred to the Lands D for land control action. For a roadside skip which caused serious obstruction or imminent danger to the public or vehicles, the HKPF would take removal action under the common law and prosecution action under section 4A of the Cap. 228 Ordinance. It was supposed to be a short-term measure "pending a longer-term solution" in which appropriate legislative amendments might be required.

² Team Clean, set up in May 2003 and disbanded in August 2003, was led by Chief Secretary for Administration and comprised members from the HAB, the HAD, the DEVB and the Lands D. Its mission was to establish and promote a sustainable and cross-sectoral approach to improving environmental hygiene in Hong Kong.

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18. On the question as to why the proposed permit system for regulating skip operations was not taken forward by the Steering Committee back in 2009, **Mrs Ingrid YEUNG HO Poi-yan, Commissioner for Transport**, explained as follows:

- the TD did not consider that it was in the position to process the skip permit applications, as road safety was only one of the considerations in processing the applications; and
- the statistics on accidents caused by roadside skips were insignificant at the time and that the HKPF was already empowered under section 4A of the Cap. 228 Ordinance to remove any roadside skip causing serious obstruction or imminent danger to road users.

19. **Director of Lands** also explained that:

- a permit system for regulating skip operations, if pursued, should be for the purpose of controlling interference with highways and streets, as in the case of the relevant permit system in the United Kingdom, instead of premised on the basis of unauthorized use of government land;
- the permit system should also be supported by an effective enforcement regime, and in this regard the taking of land-control action under the Cap. 28 Ordinance against breaches of the permit system would not be effective. This was because land-control action under the Cap. 28 Ordinance, by its nature, was meant to target occupation by structures, rather than skips which were readily movable but were causing obstruction or inconvenience; and
- for the proposed permit system to be effective, new legislation or amendments to appropriate legislation would be required.

20. After the public hearing, the **Secretary for Development**, the **Secretary for the Environment** and the **Secretary for Transport and Housing** provided a joint reply regarding the work of the WG (in *Appendix 22*). In gist, on the question as to which policy bureau would lead the WG, the three Secretaries replied that at the initial stage, the DEVB would co-ordinate the input of the relevant bureaux and

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departments to the work of the WG³. As regards the timeframe for the WG to complete its work, the three Secretaries replied that one year was necessary as the WG needed to ascertain the relevant legal aspects and explore different options to enhance the existing mechanism or introduce new regulatory system. The WG would also need to allow sufficient time for the relevant stakeholders to provide feedback on the options to be identified.

21. Responding to the Committee's enquiry on whether consideration would be given to re-visiting the permit system considered by the Steering Committee and to require skip owners/operators to purchase accident insurance for their skips placed on roadside, **Secretary for Development** advised after the hearing (in Appendix 22) that the issues raised would be amongst those to be considered by the WG.

Actions taken by the HKPF

22. The Committee noted from Table 4 referred to in paragraph 3.11 of the Audit Report that of the 1 592 roadside skip cases handled by the HKPF from January 2008 to June 2013, the HKPF had taken actions to remove 32 skips (on average one skip in two months) and prosecute persons involved in 25 cases. The Committee enquired about the reasons for such low enforcement rates.

23. **Mr LO Wai-chung, Acting Commissioner of Police**, explained at the meeting and further elaborated by **Commissioner of Police** in his reply to the Committee after the hearing (in Appendix 21) that:

- using skips for disposal of construction and renovation waste was an effective means to reduce environmental nuisance and facilitate the construction and fitting-out trades in disposing of such waste in a tidy and orderly manner. Therefore, Police action had to be reasonable and proportional and appropriate to the prevailing circumstances;
- factors for judging whether the presence of a skip was causing serious obstruction or imminent danger to the public would very much depend on different circumstances prevailing at the scene, such as the layout of the road, traffic flow, visibility and line of sight obstruction caused to motorists or pedestrians. A Police officer had to make a professional

³ The Secretary for the Environment informed the Committee in his letter dated 14 January 2014 that with immediate effect the ENB would take the lead to co-ordinate the Administration's efforts in improving the management of roadside skips. The relevant letter is in *Appendix 23*.

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judgement as to whether a skip was causing serious obstruction and/or imminent danger to the public and if so, a Police officer of the rank of Sergeant or above would be called upon to make any decision regarding its immediate removal. The response of the Police officer must be seen as appropriate to the prevailing circumstances and represent a reasonable and proportional response to the situation;

- the terms "serious obstruction" and "imminent danger" were a matter of professional judgement. Having considered all the circumstances prevailing at the scene, such as the layout of the road; traffic flow; visibility and line of sight obstruction caused to motorists or pedestrians, Frontline officers had been reminded to take into consideration the TD Guidelines which might assist them in determining the degree of "serious obstruction" or "imminent danger";
- skips causing serious obstruction or imminent danger to the public on roads and pavements should be removed; this might be achieved through the owners' own actions in removing the skip at the Police's request or by Police employing a contractor to remove the skip. The skip operator might be prosecuted by way of summons if there was sufficient evidence for a prosecution. Where a skip was not causing serious obstruction or imminent danger to the public, the case would be referred to the Lands D for follow-up actions. However, an individual officer might give advice or warning to the skip operator on the basis of his/her professional judgement as to which was appropriate and proportional to achieve the objective of resolving the situation; and
- since May 2010, the HKPF had regularly reminded frontline officers of their responsibility in respect of enforcement action against skips causing serious obstruction or imminent danger to the public. It must also be emphasized that enforcement actions against roadside skips included immediate removal and other Police actions, depending on the situation, such as, (a) if the skip owner could be located, they would be requested to remove the skip; (b) the issue of advice or warning to skip operator; (c) applying for a summons; and (d) referring to the Lands D for follow-up actions.

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24. Responding to the Committee's enquiry as to whether the HKPF had used section 32 of the Cap. 228 Ordinance⁴ to require skip operators to remove their skips, **Commissioner of Police** stated (in Appendix 21) that section 32 was not practical because it failed to secure the removal of a roadside skip causing a serious obstruction or imminent danger expeditiously. Legal advice was sought from the Department of Justice; it was confirmed that the use of section 4A was correct in that it achieved the objective of removing the skip and, where felt appropriate and proportional, prosecute the skip operator for placing the skip on a road causing serious obstruction or imminent danger.

25. The Committee noted from paragraph 1.5 of the Audit Report that during the period November 2009 to June 2013, the HKPF recorded 10 traffic accidents involving skips, in which a total of 15 persons were injured (of whom four were seriously injured). However, according to the reply given by the Secretary for the Environment to a written question raised by a Member at the Council meeting on 9 March 2011 and the reply given by the Secretary for Development to an oral question raised by a Member at the Council meeting on 14 November 2012, the number of traffic accidents involving skips was 66 in 2010 and 77 in 2011. The Committee enquired about the reason for such large discrepancies between the figures provided in the Audit Report and that provided in the replies to Members.

26. **Secretary for Development** and **Secretary for the Environment** responded that the Administration attached great importance to questions raised by Members. In gathering information from other bureaux/departments for the replies to Members, every care was made to ensure that the information came from the proper authority.

27. **Acting Commissioner of Police** expressed his regret and apologized for the erroneous statistics. He explained that this error had occurred because some Police officers had mistakenly selected "skip" instead of "slip" or "skid" as causation factors in the computer system. Steps had now been taken to add the appropriate Chinese terms in the system. He admitted that the HKPF was not aware of this problem, until the Audit requested the HKPF in 2013 to provide information on the number of accidents caused by skips in the past three years. At the request of the Committee,

4 Section 32(1) stipulates that "It shall be lawful for the Commissioner of Police to require any person whose duty it may be to remove any filth or obstruction, or to do any other matter or thing required to be done by this Ordinance, to do so within a certain time to be then fixed by the said officer, and, in default of such requisition being complied with, the officer shall cause to be removed such filth or obstruction or do or cause to be done such other matter or thing as aforesaid".

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Acting Commissioner of Police agreed to give the explanation in details in writing (in *Appendix 24*).

Actions taken by the Lands D

28. According to paragraph 2.18 of the Audit Report, during the nine months from August 2012 to April 2013, the Lands D had received a total of 166 public complaints over skips placing at Performing Arts Avenue. The Committee enquired about the reasons for allowing such prolonged illegal occupation of the road to happen.

29. **Director of Lands** responded that the District Lands Office/Hong Kong East ("DLO/HKE") acted on the 166 complaints for unauthorized placing of skips at Performing Arts Avenue during the period from August 2012 to April 2013 and posted the Cap. 28 Ordinance notices. All the subject skips were found self-removed before the date of expiry of the Cap. 28 Ordinance notices. Obviously during that period the area was re-occupied by the same or different skip operators after DLO/HKE had completed each round of land control action. As mentioned in the Audit Report, the Cap. 28 Ordinance was not an effective tool for enforcing against skip operations which were mobile by nature and easily movable.

30. According to paragraph 3.7(b) of the Audit Report, the Lands Administration Office Instructions provide that DLO staff should, in each DLO, draw up a list of black spots of unauthorized placing of skips and formulate a patrol programme for the black spots, update the list regularly, and forward the list to the relevant District Councils and District Offices of the HAD to enlist their assistance in monitoring roadside skips placed at the black spots, and referring cases observed to the DLO for actions. The Committee enquired whether a black-spot list had been drawn up for HKE.

31. **Director of Lands** responded at the hearing and further elaborated in her reply to the Committee (in *Appendix 20*) that:

- although no black-spot list pinpointing the unauthorized placing of skips had been drawn up by DLO/HKE, DLO/HKE had been joining other departments in conducting regular patrol of a list of environmental hygiene black-spots (which may cover roadside skips) drawn up under the ambit of the Food and Environmental Hygiene Committee of Wan

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Chai District Council. The list currently covered two black-spots of unauthorized placing of skips, namely Sharp Street East and Jaffe Road/Pervical Street (near Sino Plaza). With hind sight, having regard to the frequency of complaints received, the Performing Arts Avenue could have been included; and

- DLO/HKE was now drawing up a list of black spots pinpointing unauthorized placing of roadside skips in the geographical area of Wan Chai District Council and would soon refer the list to Wan Chai District Council and District Office (Wan Chai) to enlist their assistance in monitoring the black-spots and reporting cases. The list would cover, inter alia, the areas at/near Performance Arts Avenue, Sharp Street East and Jaffe Road/Pervical Street (near Sino Plaza). DLO/HKE would also review the cases for drawing up a similar list in respect of geographical areas covered by the Eastern District Council.

32. The Committee noted from paragraph 3.17 of the Audit Report that as of June 2013, of the 12 DLOs, only one DLO, i.e. DLO/Sai Kung, had compiled a black-spot list of unauthorized placing of skips, and only four DLOs had sought assistance from the pertinent District Councils and the District Offices of the HAD for referring observed skips to the DLOs for land-control actions. Responding to the Committee's enquiry on when the black spot list would be drawn up for each of the remaining 11 DLOs, **Director of Lands** advised at the hearing and further elaborated in her reply to the Committee after the hearing (in Appendix 20) that:

- all DLOs would be reminded to review on a periodic basis the need for drawing up and updating such a list having regard to empirical evidence. The black spots should be included in the routine land control patrol programme. Moreover, DLOs should also refer the list to relevant District Councils and District Offices to enlist their assistance in monitoring the black spots and reporting cases; and
- in May 2009, the Lands D issued new guidelines for handling roadside skips. In particular, the guidelines tighten the timeframe for enforcement action. Specifically, land control staff should inspect the site under complaint/referral as soon as possible and in any case no more than two working days from the date of receipt of the complaint/referral, bringing along copies of notice under section 6(1) of the Cap. 28 Ordinance for immediate posting once the breach was confirmed. After that, the district term contractor should be alerted about the potential clearance operation to be commenced and completed on the

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expiry date of the section 6(1) notice. The land control staff should re-inspect the site in the morning of the expiry date. If the skip was still there, they should instruct the district term contractor to remove the skip within the same day.

Actions taken by the TD

33. The Committee enquired about the reasons for the TD to only issue the TD Guidelines, instead of formulating a legislation to regulate roadside skips. **Commissioner for Transport** explained and further elaborated in her reply to the Committee after the hearing (in *Appendix 25*) that:

- "obstruction by on-street skips" was one of the inter-departmental district management issues discussed by the Steering Committee set up in January 2007. Before the second Steering Committee meeting in May 2007, the TD and the EPD jointly convened a meeting with six trade associations (representing around 80% of skip operators) during which the TD proposed some short-term measures to improve the safety of skips, for example, improving the colour and outlook of skips such as painting in bright yellow and installing yellow flash lights at night. Representatives from the trade were generally supportive of TD's suggestions;
- at the Steering Committee meeting in May 2007, it was agreed that the TD should develop guidelines aimed at improving the safety of skips placed on roads. The meeting also agreed that the TD and the EPD should consult the trade on the guidelines before promulgation. The TD Guidelines were finalized and distributed to the trade in January 2008; and
- although the TD did not have the power take any enforcement action against roadside skips, the TD would:
 - (a) continue to maintain liaison with skip operators;
 - (b) participate constructively in the work of the WG set up to formulate strategies and action plans for regulating and facilitating skip operations; and
 - (c) arrange for complaints about skips placed at roadside received by the 1823 hotline to be copied to the TD (at present majority of the

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complaints were sent to the HKPF and the Lands D as they were the departments responsible for taking enforcement actions). This would enable the TD to have a full picture of the situation. The TD would also re-examine cases sent to the Lands D, i.e. cases classified as not causing serious obstruction or imminent danger to the public or vehicles. Should any cases sent to the Lands D were found to be causing serious obstruction or imminent danger to the public or vehicles, the TD would refer these cases to the HKPF for enforcement action to be taken.

34. As revealed in paragraphs 2.12 and 3.18 of the Audit Report, compliance by skip operators with the TD Guidelines was low. Whilst noting that such compliance was on a voluntary basis, the Committee considered that more should be done by the TD to educate the skip operators on the importance of complying with the TD Guidelines. In this regard, the TD was requested to provide a response to the following questions after the hearing:

- what were the numbers of TD Guidelines printed and distributed by the TD to skip operators when the Guidelines were promulgated in January 2008;
- whether the TD had re-printed the TD Guidelines; if so, when was this done and what were the numbers printed and distributed to skip operators respectively;
- whether the TD had launched any exercise to educate the skip operators on the importance of complying with the TD Guidelines; and
- whether the TD would step up efforts to educate skip operators on the importance of complying with the TD Guidelines.

35. **Commissioner for Transport** explained and further elaborated in her reply to the Committee after the hearing (in Appendix 25) that:

- a total of 62 000 hard copies of the TD Guidelines, comprising 60 000 copies in Chinese and 2 000 copies in English, were printed in January 2008;
- the TD had not arranged for further printing of the Guidelines based on the following considerations:

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- (a) sufficient copies of the Guidelines were still available in stock;
- (b) the TD understood that the trade/skip operators were well aware of the Guidelines including the recommendations therein; and
- (c) a soft copy of which was available in the TD's website.

The TD would continue to distribute the Guidelines to relevant parties as appropriate;

- the TD had explained the Guidelines to skip operators in a meeting with the 關注全港廢物處理聯席會議 held in 2011. The TD had also corresponded with skip operators over the Guidelines and it was clear from the exchanges that the trade was well aware of the Guidelines; and
- the TD would step up promotion of the Guidelines to the trade whilst working together with other relevant departments and bureaux in the joint WG to formulate strategies and action plans for regulating and facilitating skip operations.

Actions taken by the EPD

36. According to paragraph 2.2 of the Audit Report, in December 2007, after consulting the relevant trade associations, the EPD issued guidelines ("the EPD Guidelines") to the associations requesting skip operators to take the following environmental measures on a voluntary basis when operating roadside skips:

- skips shall be covered with clean waterproof canvas;
- skips shall have clear markings indicating that disposal of domestic, flammable, hazardous and chemical waste is not permitted; and
- operation of skips shall be suspended from 11 p.m. every day to 7 a.m. of the following day, and at all times on public holidays.

37. The Committee noted from paragraph 2.12 of the Audit Report that none of the 470 skips identified in the road survey conducted by Audit from August 2012 to July 2013 had fully complied with the EPD Guidelines. Referring to the low compliance rates of the EPD Guidelines by skip operators set out in Appendix A to

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the Audit Report, the Committee enquired whether, and if so, what actions would be taken by the EPD to improve the compliance rates.

38. **Secretary for the Environment** responded that:

- from 2011 to September 2013, three complaints about skips were received by the EPD per month on average. These complaints were mainly about the skips not covered with clean waterproof canvas;
- during the corresponding period, the EPD conducted some 100 to 200 site inspections to follow up on the complaints received. In the great majority of cases, the skip operators swiftly rectified the problems upon advice from the EPD staff; and
- the EPD had written to the construction trade and related transport trade associations in November 2013 to step up publicity. The EPD would also collaborate with the trades to organize activities in the coming months to promote the adoption of the good practices in the EPD Guidelines.

39. **Ms Anissa WONG Sean-ye**, **Director of Environmental Protection**, supplemented that similar to other commercial and industrial activities, the operation of roadside skips was subject to the requirements of the various pollution control legislation. If the operation of roadside skips caused pollution or environmental nuisance, the EPD would apply the established requirements and standards of the relevant legislation in determining the follow-up enforcement action.

40. On whether the EPD would consider setting up a hotline to receive complaints over environmental nuisance caused by roadside skips, **Director of Environmental Protection** advised that there was no such need. In addition to the 1823 Citizen's Easy Link, the EPD also operated a customer service hotline to directly receive and handle pollution complaints reported by the public, including complaints of environmental nuisance caused by roadside skips.

Actions taken by the Food and Environmental Hygiene Department

41. According to paragraph 3.5(a) of the Audit Report, the Food and Environmental Hygiene Department ("FEHD") has not taken any enforcement action

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against skip owners in the past 10 years. **Mr Clement LEUNG Cheuk-man, Director of Food and Environmental Hygiene**, replied in his letter to the Committee that the FEHD would take appropriate enforcement action under the Public Health and Municipal Services Ordinance (Cap. 132) if there was evidence that the skip owners or users had littered or were responsible for causing environmental hygiene nuisances to the vicinity. However, no breach of the Ordinance could be observed in the past suggesting that persons using the skips would normally clean up the surrounding area after loading/unloading the waste. The Director's letter is in *Appendix 26*.

C. Government system for facilitating skip operations

42. According to paragraph 4.4 of the Audit Report, under section 5 of the Cap. 28 Ordinance, a skip owner may apply for a licence from the Lands D for temporary occupation of government land. From January 2003 to August 2013, the Lands D had not received any application for a licence under the Cap. 28 Ordinance for placing skips on public roads. The Committee queried why this was the case, having regard to the fact that the total number of complaints over roadside skips handled by the HKPF and the Lands D increased from 645 in 2008 to 1 366 in 2012.

43. **Director of Lands** explained that given the short-term and changing-location nature of skip operations and that non-compliance with the application and permit requirements would have little consequence, skip operators generally had little incentive, if any, to apply for a temporary licence under the Cap. 28 Ordinance. Whilst it could not be ruled out that a skip operator who obtained a licence for occupation of government land under the Cap. 28 Ordinance would still breach the relevant legislation, the issue of whether skip operators would in future be required to first obtain a licence under the Cap. 28 Ordinance would be amongst other issues to be considered by the WG.

44. According to paragraph 4.13(b) of the Audit Report, in September 2013, the DEVB and the Lands D informed Audit that if a licensing system was to be established and one of the criteria for licensing was that the skips should not cause road obstruction problems (a major problem currently caused by roadside skips), no permit could be granted and all skips would be subject to enforcement action. The Committee considered that a licensing system should not give rise to enforcement difficulties if there were clear criteria on what would constitute the problems caused by roadside skips.

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45. **Director of Lands** responded that the DEVB and the Lands D were not opposed to the establishment of a licensing system to regulate roadside skips. However, if a licensing system was to be established, it was necessary to define what were "acceptable" and "unacceptable" skip operations given the short-term and changing-location nature of skip operations.

46. As revealed in paragraph 4.3 of the Audit Report, some fitting-out companies have made provisions in their tender prices (for bidding building renovation works) for meeting fines relating to unlawful placing of skips on public roads for disposing of renovation waste. Audit considers this practice unsatisfactory and there is a need for the establishment of a better Government system for regulating and facilitating skip operations. The Committee enquired whether the Buildings Department ("BD") had information on the usage of roadside skips in operation.

47. **Secretary for Development** replied in his reply to the Committee (in Appendix 22) that:

- the BD was responsible for making provision for the planning, design and construction of buildings and associated works under the Buildings Ordinance (Cap. 123) ("BO"). Under the BO, all building works in private buildings required prior approval of building plans and consent for commencement from the Building Authority ("BA"), except for building works exempted under section 41 of the BO or minor works covered by the Building (Minor Works) Regulation. The approval and consent process would ensure that the proposed works were generally in compliance with the BO and the allied regulations. In addition, except for exempted building works, submission of notices to the BA prior to the actual commencement and after completion of the building works was in general required. The notices would serve the purpose of informing the BA of the start and end of the relevant building works; and
- the use of roadside skips concerned choice of working procedures for temporary storage of construction or renovation waste by the Authorized Person or building contractors/decorators and owners/clients concerned, having regard to the site constraints, etc. Such temporary storage was not a matter covered by the approvals, consents or notices as mentioned above. Thus, the BD did not have information on the usage of roadside skips in operation. The use of roadside skips was not a matter

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regulated under the BO. It was not appropriate for the BA to impose any condition in relation to this aspect in granting approval of building plans and consent to the commencement of building works. Besides, as explained above, not all the building works required prior approval of building plans and consent for commencement from the BA.

D. Conclusions and recommendations

48. The Committee:

Overall comments

- considers that:

- (a) a permit system to regulate and facilitate skip operations should be introduced as soon as practicable, as the existing enforcement actions taken by the Lands Department ("Lands D") and the Hong Kong Police Force ("HKPF") on roadside skips are not effective in that:
 - (i) although the Lands D could remove a skip under section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) ("the Cap. 28 Ordinance"), the Lands D needs to provide a 24-hour notice before removal action can be taken on a skip. Hence, a skip user could easily get around the Lands D's enforcement actions by moving a skip away from its original location before the expiry of a notice posted under the Cap. 28 Ordinance and moving the skip back to the same place again later; and
 - (ii) the HKPF would only remove skips under the common law and take prosecution actions on skips under section 4A of the Summary Offences Ordinance (Cap. 228), if the skips are causing serious obstruction or imminent danger to the public on roads and pavements; and
- (b) the Transport Department ("TD") should take the lead to introduce a permit system for regulating and facilitating skip operations, having regard to the facts that skips are most often placed at roadside and roadside skips cause obstruction and pose safety risks

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to road users and it is the policy purview of the Transport and Housing Bureau ("THB") and the TD to ensure smooth vehicular traffic and road safety;

- expresses alarm and strong resentment, and finds it unacceptable about the unrepentant attitude of the THB to evade the responsibility for directing the TD to take the lead in introducing a permit system for regulating and facilitating skip operations as soon as practicable to make up for the lost time, as evidenced by the joint replies from the Secretary for Transport and Housing, the Secretary for Development and the Secretary for the Environment to the Committee (in Appendices 22 and 23) in that the THB reiterated that the issues arising from the management of roadside skips are multi-faceted, despite the facts that:
 - (a) skips placed at public roads have caused obstruction to vehicular and pedestrian traffic, giving rise to environmental and hygiene problems, and safety hazards of motorists and pedestrians;
 - (b) from November 2009 to June 2013, a total of 15 persons were injured, of whom four were seriously injured, in 10 traffic accidents involving skips placed at roadside;
 - (c) the HKPF had, as early as October 2001, suggested the setting up of a system to monitor the movement and placing of skips; and
 - (d) the Chief Secretary for Administration had said, at a meeting discussing street management issues with the Home Affairs Bureau and the Home Affairs Department ("HAD") in January 2009, that a permit system for regulating the placing of roadside skips should be introduced;
- expresses alarm and strong resentment, and finds it unacceptable that although relevant trade associations and relevant Government departments, notably, the HKPF, the Lands D and the TD, were generally in support of introducing a permit system to regulate and facilitate skip operations back in 2007, the proposed permit system was eventually not taken forward. The Lands D considered the placing of roadside skips a road management issue, whilst the TD considered it a land issue;

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- considers it inexplicable and unacceptable that a lax attitude had been adopted by the Administration in managing roadside skips, as evidenced by the following:
 - (a) no survey had been conducted on the operation of skips to ascertain the magnitude of the skip problems;
 - (b) only one out of the 12 District Lands Office ("DLO") had compiled a black spot list of unauthorized placing of skips;
 - (c) only four of the DLOs had sought assistance from the pertinent District Councils and District Offices of the HAD for referring observed skips to the DLOs for land-control actions;
 - (d) little or no effort had been made by the TD and the Environmental Protection Department ("EPD") to ensure voluntary compliance with the TD and EPD Guidelines on skip operations, as a result of which the compliance rates were extremely low or even nil; and
 - (e) no evaluation had been conducted on the effectiveness of the TD and EPD Guidelines on skip operations since their introduction in 2008;
- urges that the TD and the EPD should step up efforts to educate skip operators on the need of complying with the TD and EPD Guidelines on skip operations;
- notes that the TD will arrange for complaints about roadside skips received by the 1823 hotline to be copied to the TD to enable the TD to have a full picture of the situation. TD will also re-examine cases sent to the Lands D, i.e. cases classified as not causing serious obstruction or imminent danger to the public or vehicles. Should there be any cases that are found to be causing serious obstruction or imminent danger to the public or vehicles, the TD will refer them to the HKPF for enforcement action to be taken;
- considers that there was no basis in the conclusion made by the Steering Committee on District Administration in May 2010 that the problem of roadside skips was in general under control and the issue of setting up a permit system to regulate skip operation would not be pursued, having regard to the fact that the total number of complaints handled by the

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HKPF and the Lands D increased from 645 in 2008 to 1 366 in 2012, representing a 112% increase;

- notes that:

- (a) a joint working group ("WG") will be formed with key participation from the Development Bureau ("DEVB"), the Environment Bureau ("ENB") and the THB as well as other relevant departments to analyze the problems relating to roadside skips and discuss how best these problems should be tackled, including examining the most suitable authority for the overall management of skip operations and ascertaining the relevant legal aspects and exploring different options to enhance the existing mechanism or introduce new regulatory system. At the initial stage, the ENB will co-ordinate the input of the relevant bureaux and departments to the work of the WG; and
- (b) the initial assessment of the WG is that about one year is required to complete its work. The WG will commence the necessary work as soon as possible and endeavour to expedite actions with a view to mapping out more effective measures as appropriate. The WG will report progress in its half-yearly report to the Committee; and

- urges that:

- (a) the WG should strive to shorten the timeframe for completing its work to considerably less than one year, as the problems of roadside skips have been left not effectively attended to for unduly long and there has been a significant increase in the number of public complaints over roadside skips in recent years; and
- (b) the THB should direct the TD to take the lead in introducing a permit system for regulating and facilitating skip operations without further delay.

Specific comments

49. The Committee:

Problems caused by roadside skips

- notes that the Audit Commission identified a total of 470 roadside skips and a number of irregularities based on road inspections in three Districts and a one-year road survey;
- expresses alarm and strong resentment, and finds it unacceptable that:
 - (a) there has been a significant increase in the number of public complaints over roadside skips in recent years (from 645 in 2008 to 1 366 in 2012);
 - (b) roadside skips have caused traffic accidents and injuries;
 - (c) the guidelines issued by the EPD in 2007 and the TD in 2008 on skip operations were generally not complied with by skip operators;
 - (d) the guidelines in (c) above have not been formulated under any legislation and skip operators are only requested to comply with them on a voluntary basis;
 - (e) many skips are unlawfully occupying government land every day, causing environmental and hygiene problems, obstruction to vehicular and pedestrian traffic and damage to roads, and posing safety risks to road users; and
 - (f) the Government does not have any statistics on the number of skip operators, the number of skips in operation and the number of skips placed at roadside every day;
- notes that:
 - (a) the Secretary for Development, the Secretary for the Environment and the Secretary for Transport and Housing have agreed with the audit recommendations in paragraph 5.6(a) and (c)(i) of the Director of Audit's Report ("Audit Report"), and will conduct a

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survey to ascertain the magnitude of the skip problem, and formulate strategies and action plans for regulating and facilitating skip operations; and

- (b) the TD will arrange for complaints about roadside skips received by the 1823 hotline to be copied to the TD to enable the TD to have a full picture of the situation. The TD will also re-examine cases sent to the Lands D, i.e. cases classified as not causing serious obstruction or imminent danger to the public or vehicles. Should there be any cases that are found to be causing serious obstruction or imminent danger to the public or vehicles, the TD will refer them to the HKPF for enforcement action to be taken;

Government actions on regulating roadside skips

- considers it inexplicable and unacceptable that:
 - (a) the Cap. 28 Ordinance may not be an effective tool to regulate skip operations given the long time sometimes taken by the Lands D in taking enforcement actions under the Ordinance;
 - (b) the long time taken by the Lands D in conducting site inspections in response to some public complaints on roadside skips did not meet the public expectations;
 - (c) many DLOs did not comply with Lands Administration Office Instructions ("Lands D Instructions") to draw up a list of black spots of unauthorized placing of skips, and formulate a patrol programme for the black spots;
 - (d) Audit road survey and inspections revealed that amongst the 470 skips identified:
 - (i) 39% of the skips had been placed at "no-stopping" restricted zones which might cause danger to the public;
 - (ii) 25% of the skips had been placed at roadside within 25 metres of junctions, roundabouts, pedestrian crossings, public transport facilities, exits and run-ins of developments which might cause traffic accidents;

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- (iii) 98% of the skips had not been provided with yellow flashing lights during the hours of darkness;
 - (iv) 19% of the skips had been placed on bus routes; and
 - (v) 92% of the skips had not been placed at general lay-bys; and
 - (e) the HKPF's actions to remove only one skip every two months might not have reflected the magnitude of the skip problem;
- notes that:
- (a) the Secretary for Development, the Secretary for the Environment and the Secretary for Transport and Housing have agreed with the audit recommendations in paragraph 5.6(b) and (e) of the Audit Report, and will conduct a review of the effectiveness of the existing enforcement actions on roadside skips taken by the Lands D and the HKPF;
 - (b) the Director of Lands has agreed with the audit recommendations in paragraph 5.7 of the Audit Report and will remind her staff to comply with Lands D Instructions; and
 - (c) the Commissioner of Police has agreed with the audit recommendation in paragraph 5.8 of the Audit Report and will remind his staff to step up enforcement actions on roadside skips;

Government system for facilitating skip operations

- notes that although a skip owner may apply for a licence under section 5 of the Cap. 28 Ordinance for temporary occupation of government land, the Lands D had not received any application for a licence to place skips on public roads in the past 10 years;
- notes that some overseas authorities, such as Melbourne of Australia, New York City of the United States of America and Westminster of the United Kingdom, have implemented a permit system for regulating the placing of roadside skips;

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- expresses alarm and strong resentment, and finds it unacceptable that:
 - (a) although relevant trade associations and Government departments were generally in support of introducing a permit system to regulate skip operations, such a system has not been introduced in Hong Kong; and
 - (b) both the Lands D and the TD are reluctant to take up the responsibility for regulating skip operations;
- notes that:
 - (a) a joint WG will be formed with key participation from the DEVB, the ENB and the THB as well as other relevant departments to analyze the problems relating to roadside skips and discuss how best these problems should be tackled, including examining the most suitable authority for the overall management of skip operations and ascertaining the relevant legal aspects and exploring different options to enhance the existing mechanism or introduce new regulatory system. At the initial stage, the ENB will co-ordinate the input of the relevant bureaux and departments to the work of the WG; and
 - (b) the initial assessment of the WG is that about one year is required to complete its work. The WG will commence the necessary work as soon as possible and endeavour to expedite actions with a view to mapping out more effective measures as appropriate; and
- urges that:
 - (a) the WG should strive to shorten the timeframe for completing its work to considerably less than one year, as the problems of roadside skips have been left not effectively attended for unduly long and there has been a significant increase in the number of public complaints over roadside skips in recent years; and
 - (b) the THB should direct the TD to take the lead in introducing a permit system for regulating and facilitating skip operations, having regard to the facts that skips are most often placed at roadside and roadside skips cause obstruction and pose safety risks to road users and it is the policy purview of the THB and the TD to ensure smooth vehicular traffic and road safety.

Follow-up action

50. The Committee wishes to be kept informed of progress made in implementing the various audit recommendations, including the recommendation in paragraph 5.6(c)(ii) of the Audit Report on directing a Government department for regulating and facilitating skip operations.

A. Introduction

The Audit Commission ("Audit") conducted a review to examine the allocation and utilization of public rental housing ("PRH") flats.

Background

2. The Hong Kong Housing Authority ("HA") is a statutory body established under the Housing Ordinance (Cap. 283) to develop and implement a public housing programme which seeks to achieve the Government's policy objective of meeting the housing needs of people who cannot afford private rental accommodation. The primary role of the HA is to provide subsidized PRH to low-income families. It plans, builds, manages and maintains PRH flats.

3. The Housing Department ("HD"), as the executive arm of the HA, provides secretarial and executive support to the HA and its committees. The HD also supports the Transport and Housing Bureau in dealing with all housing-related policies and matters.

4. Public housing resources are valuable and heavily subsidized. According to the HD, the average construction cost for a PRH flat is about \$0.7 million (not including the land cost) and it also takes about five years to construct a flat. As at 31 March 2013, the HA had a stock of about 728 000 PRH flats, accommodating some 2 million people (710 000 households). Out of a strength of 8 500 HD staff, about 5 000 staff (mainly in the Strategy Division and the Estate Management Division) were responsible for the allocation and management of PRH flats.

5. PRH estates are grouped into four districts (i.e. the Urban District, the Extended Urban District, the New Territories District and the Islands District)¹. According to the current housing allocation policy of the HA, the HD gives an eligible applicant three housing offers, one at each time, according to the applicant's choice of district.

¹ The Urban District comprises Hong Kong Island and Kowloon. The Extended Urban District includes Kwai Chung, Ma On Shan, Sha Tin, Tseung Kwan O, Tsing Yi, Tsuen Wan and Tung Chung. The New Territories District includes Fanling, Sheung Shui, Tai Po, Tin Shui Wai, Tuen Mun and Yuen Long. The Islands District excludes Tung Chung.

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6. The HA maintains a Waiting List ("WL") for PRH applicants. In general, PRH flats are allocated to eligible general applicants in accordance with the order their applications are registered on the WL (i.e. on a first-come-first-served basis), taking into account their family size and choice of district. As at 31 March 2013, there were 116 000 general applicants (including both family applicants and single elderly applicants) and 112 000 non-elderly one-person applicants under the Quota and Points System ("QPS")² on the WL. The HA's current target is to maintain the average waiting time ("AWT") at around three years for general applicants and around two years for single elderly persons (i.e. those aged 60 or above). No target is set on the AWT for QPS applicants.

The Committee's Report

7. The Committee's Report sets out the evidence gathered by the Committee which is relevant to the issues identified in the Director of Audit's Report ("the Audit Report"). The Report is divided into the following parts:

- Introduction (Part A) (paragraphs 1 to 10)
- Allocation of flats to people in need of public rental housing (Part B);
 - (a) Management of the Waiting List for general applicants (paragraphs 11 to 20)
 - (b) Implementation of the Quota and Points System (paragraphs 21 to 28)
 - (c) Processing of applications (paragraphs 29 to 34)
- Maximizing the rational utilization of public rental housing flats (Part C);
 - (a) Management and control of unoccupied flats (paragraphs 35 to 50)
 - (b) Implementation of the Well-off Tenants Policies (paragraphs 51 to 58)

² The QPS was introduced in September 2005 to rationalize and re-prioritize the allocation of PRH to non-elderly one-person applicants. Under the QPS, points are assigned to applicants based on three determining factors: (i) age at the time of application; (ii) PRH residency; and (iii) waiting time. An annual allocation quota is set under the QPS at 8% of the number of flats to be allocated to WL applicants, subject to a maximum of 2 000 units. The number is broadly equivalent to the annual average of PRH units allocated to non-elderly one-person applicants over the 10 years before the introduction of the QPS.

- (c) Under-occupation of public rental housing flats (paragraphs 59 to 66)
- Tackling abuse of public rental housing (Part D);
 - (a) Checking of eligibility of applicants (paragraphs 67 to 72)
 - (b) Processing of household declarations under the Well-off Tenants Policies (paragraphs 73 to 76)
 - (c) Flat inspections under the Biennial Inspection System (paragraphs 77 to 78)
 - (d) Enforcement actions (paragraphs 79 to 86)
- Way forward (Part E) (paragraphs 87 to 90); and
- Conclusions and recommendations (Part F) (paragraph 91).

Public hearings

8. The Committee held two public hearings on 25 and 28 November 2013 to receive evidence on the findings and observations of the Audit Report.

Declaration of interests

9. At the beginning of the Committee's first and second public hearings held on 25 and 28 November 2013:

- **Hon Alan LEONG Kah-kit** declared that he was currently a member of the HA; and
- **Hon Kenneth LEUNG** and **Hon NG Leung-sing** declared that they were former members of the HA.

Opening statement by the Secretary for Transport and Housing

10. **Professor Anthony CHEUNG, Secretary for Transport and Housing**, made an opening statement at the beginning of the Committee's first public hearing held on 25 November 2013, the summary of which is as follows:

- in line with the policies set by the HA, the HD had taken a number of initiatives to maximize the rational utilization of PRH resources. With such a large-scale operation and service area, the Administration recognized that there was always room for improvement in the day-to-day administration of public housing, including rationalizing working procedures and enhancing transparency;
- the HA's objective was to provide PRH to low-income families who could not afford private rental accommodation, and its target was to maintain the AWT at around three years for general applicants on the WL. The AWT for general applicants was calculated (a) on the average of the waiting time of general applicants housed to PRH over the past 12 months; and (b) the waiting time counted from the date of registration to the date of the first offer of a PRH flat. Currently, applicants would have three housing offers to cater for their choices as far as practicable;
- for the enhancement of transparency in PRH application, the Administration shared the Director of Audit's view that there was a need to conduct investigations periodically to identify long-outstanding cases on the WL. In fact, the HA had conducted analyses of the housing situation of WL applicants annually since 2011 to study, amongst other things, cases on the WL with longer waiting times. The HA recently reported the outcome of the 2013 analysis to the Panel on Housing of the Legislative Council ("LegCo") at the Panel meeting held on 4 November 2013. The HA planned to continue with the special analyses and report the same on an annual basis;
- the Long Term Housing Strategy Steering Committee ("LTHS Steering Committee") had in September 2013 published the Long Term Housing Strategy ("LTHS") Consultation Document, putting forward recommendations on the QPS which included allocating more points to those who are above the age of 45, and developing a mechanism to regularly review the income and asset of QPS applicants, etc. The public consultation would end on 2 December 2013;

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- there were divergent views on the Well-off Tenants Policies in the community; some were of the opinion that the policies should be tightened whilst some advocated for relaxation or even cancellation. The LTHS Consultation Document further invited public's views on the policies, which would facilitate the HA to further consider the related issues and better utilize the public housing resources; and
- having considered the recommendations made by the Director of Audit on handling the Under-occupation ("UO") issue in 2006-2007, the HA endorsed in 2007 various interim measures and established the "Prioritized UO" ("PUO") threshold to deal with the UO cases in a phased approach. The HD further reviewed the UO policy in 2010 and 2013 respectively to revise the PUO threshold to achieve better results.

The full text of the Secretary for Transport and Housing's opening statement is in *Appendix 27*.

B. Allocation of flats to people in need of public rental housing

Management of the Waiting List for general applicants

Transparency and accountability in the AWT computation

11. Currently the HA defines waiting time for PRH as the period between registration on the WL and the first housing offer, excluding any frozen period in between³. According to the HA's published information, as at end-June 2013, the AWTs of the applicants were 2.7 years for general applicants and 1.5 years for single elderly applicants. The AWT for general applicants had been increasing since 2008-2009⁴.

12. The Committee noted from paragraph 2.18 of the Audit Report that Audit's analysis of the data of the 13 586 general applicants housed in the 12-month period ended 31 March 2013 showed that the average elapsed time whilst waiting for PRH ("ETW") for an applicant ranged from 2.91 years (if the applicant accepted the first

3 Under the established methodology, waiting time refers to the time taken between registration on the WL and the first offer of a PRH flat, excluding any frozen period during the application period (for example, when the applicant has yet to fulfill the seven-year residence requirement, the applicant is imprisoned, the applicant has requested to put his application on hold pending arrival of family members for family reunion).

4 The AWT for general applicants increased from 1.8 years in 2008-2009 to 2.7 years in 2012-2013.

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offer) to 4.12 years (if the applicant accepted the third offer). As such information was useful for the applicants in making their decisions on whether to accept the housing offer right away or wait for the next chance, the Committee asked whether consideration would be given to publicizing on the HA's website information about the average ETW between the first and second offers and that between the second and third offers.

13. **Secretary for Transport and Housing** said and **Mr Duncan Warren PESCOB, Director of Housing**, supplemented that:

- in the past, the Administration had mentioned the definition of the AWT and the basis of its calculation on numerous public occasions, including at LegCo meetings and to the press;
- in view of the Director of Audit's recommendation, the Administration agreed to enhance the publicity in this aspect. The HA would incorporate into the brochure on "Waiting List for Public Rental Housing - Information for Applicants" and the application form for PRH the definition and computation method of the AWT for applicants, together with other information recommended by Audit for applicants' reference. As the HA targeted to complete the editing and printing of the documents by April 2014, its plan was to publicize all such information on the HA/HD's website at the same time when the new brochure and the new application form for PRH would be available for use in April 2014;
- an application must be vetted to ensure that the applicant concerned was eligible. The receipt of an application did not necessarily mean that the applicant concerned fulfilled the eligibility criteria and could be registered on the WL. Sometimes, an applicant needed to submit further documents in support of his application. Hence, the waiting time started when the HD had vetted the application and considered the applicant eligible for PRH;
- whilst eligible applicants were given three housing offers, they were provided with a housing opportunity at the first offer. In other words, an applicant would be rehoused if he accepted the first offer. It was a matter of personal decision if the applicant declined the first offer to wait for subsequent offers. Hence, the waiting time would only be counted up to the first offer. The decision as to whether or not to accept the first, second or third offer rested entirely with the applicant

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and was not under the control of the HA. It was therefore not appropriate for the HA to publish information regarding aspects of waiting time over which it had no control;

- publishing past figures on the waiting time, say from the first offer to the second offer or from the second offer to the third offer as suggested might actually be misleading and would not help applicants in making informed decisions. The past trend of time between offers did not reflect the situation in the future since it depended on the supply and demand circumstances at that particular time; and
- nonetheless, the HA would consider making available additional statistics of WL applicants when the HA conducted the next special analysis of the housing situation of the WL applicants in 2014.

"Three offers in one go" approach

14. As reported in paragraph 2.19 of the Audit Report, since year 2000, applicants had been given three single offers on different dates in the allocation of PRH flats. The average ETW for 2012-2013 between the first and second offers was 0.43 years (i.e. over 22 weeks), and that between the second and third offers was 1.21 years (i.e. (0.43 + 0.78) years or over 62 weeks), which had considerably exceeded the HA's expected timeframe of 9 to 12 weeks at the time of year 2000. To shorten the AWT for PRH applicants, the Committee enquired:

- whether consideration would be given to making "three offers in one go" to a PRH applicant; and
- whether the HA had made available on its website the information on the vacant stock of PRH flats across districts to help applicants make informed decision on the choice of district.

15. **Director of Housing** responded and **Secretary for Transport and Housing** replied in his letters of 12 December 2013 and 7 January 2014 (*Appendices 28 and 29*) that:

- the "three offers in one go" approach was introduced in April 1999 but this was not welcomed by WL applicants. The HA thus reverted to the single-offer allocation methodology in April 2001;

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- the HA's experience indicated that the "three offers in one go" method would largely reduce the availability of housing resources for allocation and prolong the processing time since three flats would have to be frozen simultaneously for an applicant to make his decision, instead of allowing three applicants to consider their respective offers at the same time;
- when housing resources were in short supply, it was possible that all three offers being generated through random computer batching might fall within the same sub-district, which might not meet the special circumstances of individual applicants;
- the HA considered it more appropriate to maintain the current approach of making three separate offers to an applicant. The fact was that if the applicant took up the first offer, he would be rehoused at that point of time. This method offered better options for applicants and allowed for more efficient deployment of available units;
- although the AWT for PRH applicants could be shortened by confining the number of housing offers to two, the HA was not in favor of the suggestion to reduce the number of offers;
- the HA had all along been following the principle of optimization of resources. As soon as newly completed units or refurbished units became available, the Lettings Unit ("LU") would expedite its work in making flat allocation to applicants on the WL and in other rehousing categories;
- the information on the vacant stock of PRH flats varied drastically from day to day. If the HA published such information, it would create confusion to WL applicants regarding the vacancy position of flats across districts, and would not help them make their location choice. As such, the HA did not consider it appropriate to publish such information on its website; and
- nonetheless, the HA was considering other measures to help PRH applicants make their choice of district, including the arrangement for grouping the PRH estates into smaller districts.

Long-outstanding applications on the WL

16. The Committee noted from paragraph 2.24 of the Audit Report that as at 31 March 2013, 29% of the 116 927 general applicants on the WL had already waited for three years or more for the allocation of PRH. In particular, 7% had waited for five years or more. The Committee enquired about the reason(s) for the 7% of general applicants on the WL having to wait for five years or more for the allocation of PRH; and the measures that had been/would be taken to address the issue(s) identified.

17. **Director of Housing** said and **Ms Agnes WONG, Deputy Director of Housing (Strategy)**, supplemented that:

- the HA had been conducting a special analysis of the housing situation of WL applicants every year since 2011. The relevant work included manually going through individual file records in detail and verifying the information in the file records in order to examine the distribution of waiting times and ascertain the reasons for the long waiting time of individual cases;
- the HA's analysis of the housing situation of the general applicants in the past three years showed that applicants with longer waiting times were in general those opting for flats in the Urban or the Extended Urban Districts. The Urban and the Extended Urban Districts were more popular, and thus applicants opting for flats in these two Districts were more likely to have longer waiting time than those opting for flats in other Districts. Households on the WL with bigger families also tended to have longer waiting time;
- in the next few years, there would be a steady supply of newly completed flats in the Urban and Extended Urban Districts. Amongst the new production from 2013-2014 to 2016-2017, about 19% would be one/two-person units, 25% would be two/three-person units, 39% would be one-bedroom units (for three to four persons) and 16% would be two-bedroom units (for four persons or above). The new supply should help meet the demand for PRH in the Urban and Extended Urban Districts and for three to four-person households;
- apart from new PRH production, the HA would also strive to address the demand through recovery of PRH flats. Based on the HA's experience, there was a net gain of an average of about 7 000 flats recovered from

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surrender of flats by sitting tenants as well as enforcement actions against abuse of PRH resources, which could be made available for allocation to WL applicants every year; and

- the HA would step up its efforts in tackling abuse of PRH resources through carrying out rigorous investigations into occupancy-related cases randomly selected from PRH tenancies and suspected abuse cases referred by frontline management and the public. In 2012-2013, the HD proactively investigated some 8 700 cases, and some 490 PRH flats were recovered on grounds of tenancy abuse. Furthermore, to detect suspected non-occupation cases, the HD completed an 18-month "Taking Water Meter Readings Operation" in all PRH flats in July 2012, and in view of its effectiveness in recovering PRH flats, the HD would launch similar operations again in the future.

18. As reported in paragraph 2.27 of the Audit Report, the HD had carried out a special exercise in 2012 to investigate into those cases (about 1 400 cases) of general applicants on the WL as at end of June 2012 with waiting time of five years or more but without any housing offer. Results of the HD's investigation showed that 40% of these cases involved special circumstances of various kinds.

19. As to what follow-up actions had been taken against the other 60% cases (about 860 general applicants) with waiting time of five years or more but without any housing offer, **Secretary for Transport and Housing** said and **Deputy Director of Housing (Strategy)** supplemented that:

- as the special circumstances accorded to each of the long-outstanding applications was not entered into the computer system of the HD, the HD had to manually go through individual file records in detail and verify the information in the file records in order to ascertain the reasons for the long waiting time of individual cases. Some of the long-outstanding applications were found to involve multiple kinds of special circumstances, such as change of household particulars and location preference on social/medical grounds;
- according to the special studies (including manually going through some individual file records) conducted by the HD on the 118 700 general applicants still on the WL as at end-June 2013, the major reasons behind those cases with longer waiting time included the following:

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- (a) of the 118 700 general applicants still on the WL as at end-June 2013, about 16% (i.e. about 19 200 applicants) had a waiting time of three years or above and without any housing offer. In particular, some 2 100 cases had a waiting time of five years or above and without any housing offer;
- (b) many of these 2 100 cases involved special circumstances of various kinds, including change of household particulars (33%); refusal to accept housing offer(s) with reasons (13%); as well as other circumstances such as cancellation periods, location preference on social/medical grounds and applications for Green Form Certificate for purchasing Home Ownership Scheme ("HOS") units (8%);
- (c) of these 19 200 general applicants, about 45% (i.e. about 8 700 cases) had already reached the detailed investigation stage and would be given an offer soon if they were eligible. As regards the remaining 55% (i.e. about 10 500 cases), they mainly opted for flats in the Urban and the Extended Urban Districts;
- (d) in terms of household size, about 70% of these 19 200 general applicants were three and four-person households opting for flats in the Urban and the Extended Urban Districts;
- (e) some applicants on the WL might have their cases cancelled for different reasons (e.g. failure to meet income eligibility requirements at the detailed investigation stage, failure to attend interviews, etc.). To provide flexibility to these applicants whose circumstances might change thereafter, the HA's existing policy was that they might apply for reinstatement of their applications if they fulfilled the eligibility criteria again within a specific timeframe⁵. Strictly speaking, the applicant was ineligible during the period from cancellation to reinstatement of application. However, due to the limitations of the computer system, the HD had not been able to exclude such periods from the calculation of the AWT. Going through each individual file to exclude such periods was not practicable given the large number of applications involved; and

⁵ For example, for an application which is cancelled because the applicant's income or asset has exceeded the prescribed limit, if the applicant subsequently becomes eligible again, the applicant can request for reinstatement of the original application not earlier than six months and not later than two years after the first cancellation date of the application.

- it was the HA's plan to continue with the aforesaid special analyses and report the same to LegCo on an annual basis.

20. At the request of the Committee, **Secretary for Transport and Housing** provided, after the public hearings, a breakdown by reasons of the number of PRH applications put on hold or frozen as at end-June 2013 (in Appendix 28).

Implementation of the Quota and Points System

Built-in incentive encouraging early application for PRH

21. Under the QPS, points are assigned to applicants based on three determining factors, namely, the age of the applicants at the time of submitting their PRH applications, whether the applicants are PRH tenants, and the waiting time of the applicants⁶. Because each year of waiting under the QPS attracts 12 points, whereas each year of age increase at the time of application attracts only 3 points, there is a built-in incentive to apply for PRH early under the QPS, and this may have been a catalyst for the increasing number of PRH applications in recent years. The current system tends to encourage young applicants to apply for PRH under the QPS as early as possible (best at the minimum age of 18) despite the fact that they may not have a pressing need for housing.

22. According to paragraph 2.41 of the Audit Report, an analysis of the AWTs of those applicants who had been housed through the QPS during the period 2008-2009 to 2012-2013 showed that no PRH flat had been allocated to any applicant aged below 30, and the majority of the housed applicants were aged 50 or above. The Committee asked whether the HA had reviewed the QPS to evaluate its effectiveness and to see whether it needed to be fine-tuned, say by raising the minimum age for applications under the QPS.

23. **Director of Housing** responded that:

- the QPS was introduced to rationalize the utilization of the limited public housing resources amongst different groups of applicants. It was not a means to meet the PRH demand from non-elderly one-person applicants per se. The LTHS Steering Committee supported the HA's

⁶ The relative priority of an applicant on the WL will be determined according to the points he/she has received. The higher the number of points accumulated, the earlier the applicant will be offered a flat.

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policy to continue giving priority to families and elderly applicants over non-elderly one-person applicants for PRH flats;

- nevertheless, having regard to the relatively limited upward mobility for QPS applicants over the age of 35, the LTHS Steering Committee recommended that these applicants should be accorded higher priority under the QPS. In particular, the LTHS Steering Committee recommended that the QPS should be enhanced by allocating extra points to those above the age of 45 to improve their chance to gain earlier access to PRH;
- the HA's experience indicated that some single youngsters aged 18 or above might not be living in acceptable living condition and were genuinely in need of public housing resources. The HA therefore did not consider it appropriate to set a higher age limit for QPS applicants;
- there was also a suggestion that certain criteria should be set based on need, taking into account the specific circumstances of individual applicants. For instance, as mark deduction was currently applied to those living in PRH flats, consideration could be given to extending the mark deduction to those who were students when registered and hence would most likely earn an income exceeding the WL income limit after graduation. Nevertheless, as this was a difficult and sensitive issue, the HA must be aware of the interests of all parties and compassionate when it administered the public housing programme; and
- the LTHS Steering Committee would submit a report on the public consultation. The HA would give due consideration to the recommendations made by the LTHS Steering Committee and public views received during the public consultation before making the final decision on whether and how to refine the QPS.

24. At the request of the Committee, **Secretary for Transport and Housing** provided, after the public hearings, information on the age and employment status of QPS applicants over the years (in Appendix 28).

Screening out ineligible applicants on the WL

25. The Committee noted from paragraph 2.35 of the Audit Report that according to the HA's 2012 Survey on QPS applicants for PRH, as at end of

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December 2012, amongst the 106 900 QPS applicants, 67% (71 500) were aged 35 or below. Amongst these young applicants, 34% were students when they applied for PRH; 47% had attained post-secondary or higher education; and 33% were PRH tenants. Some of these younger and better educated applicants may be able to improve their living conditions on their own through income growth and eventually drop out of the QPS. To provide a more accurate picture of the demand for PRH, the Committee asked whether consideration would be given to introducing a mechanism to screen out ineligible applicants on the WL on a periodic basis.

26. **Secretary for Transport and Housing** advised that a revalidation check system was introduced by the HA in 1993 to manage the WL for PRH to eliminate applicants who had become ineligible due to changes in circumstances before their applications were due for investigation. In year 2000 when the time gap between pre-registration stage and vetting interview stage had been significantly shortened, such revalidation process was rendered redundant. As an increasing number of QPS applicants had post-secondary or above education attainment, and the limited PRH resources available should be reserved for people with relatively greater need for assistance, the LTHS Steering Committee recommended the HA to develop a mechanism to conduct regular revalidation check on QPS applicants to screen out applications which were no longer eligible. The relevant proposals would be put to the HA for its consideration in early 2014.

27. As to whether the HA would set an AWT target for QPS applicants, **Secretary for Transport and Housing** responded that:

- given the limited PRH resources and the surging number of general applicants, extending the three-year target of the AWT to QPS applicants would result in them taking up a greater share of PRH resources currently available for general applicants; and
- nevertheless, the LTHS Steering Committee recommended that consideration be given to setting out a roadmap to progressively extend the AWT target of about three years to non-elderly one-person applicants aged above 35, and that the QPS should be enhanced by increasing the annual PRH quota for applicants under the QPS.

28. At the request of the Committee, **Secretary for Transport and Housing** provided in Appendices II and III to his letter of 7 January 2014 (in Appendix 29) the number of QPS applications cancelled by applicants and by the HD respectively after

the QPS applicants had been registered on the WL and at the detailed vetting stage over the past five years from 2008-2009 to 2012-2013.

Processing of applications

Resubmitted applications

29. Each applicant for PRH should submit a completed application form, providing the names of the applicant and all family members, and declaring in the application form, amongst others, their monthly income and net assets owned. A total of 17 declaration forms are currently in use for PRH applications.

30. As revealed in paragraph 2.62 of the Audit Report, Audit's analysis of those applications accepted for registration during the period from 2008-2009 to 2012-2013 showed that, on average:

- 55% applications were accepted for registration right away and no resubmission was required;
- 36% applications were accepted for registration upon the first resubmission; and
- 9% applications had to be resubmitted more than once before they were accepted for registration.

31. To address the undesirable situation whereby multiple resubmission of application forms by applicants was required, **Deputy Director of Housing (Strategy)** advised that:

- declarations by applicants formed a very important part of the honor system adopted by the HD for processing applications. Many applicants however did not use the appropriate declaration forms to support their applications, resulting in the need for re-submission. Some of them did not seem to know the proper use of these declaration forms provided by the HD;
- to provide more guidance to applicants, the HA would suitably revise the PRH application form, the brochure on "Waiting List for Public Rental Housing - Information for Applicants", and the video clip to

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provide guidance to applicants on the availability and the proper use of the declaration forms. The PRH application form, the brochure on "Waiting List for Public Rental Housing - Information for Applicants", and the video clip would be ready after revision in April 2014. Reminders to advise applicants to refer to previous return letters would also be incorporated in the brochure on "Waiting List for Public Rental Housing - Information for Applicants", and the video clip on PRH application; and

- for resubmitted applications, the HD had already included in its reply letter to the applicants concerned the list of outstanding information which the respective applicant needed to supplement, together with the applicant's submission for the applicant to follow up. The HD had also put in place a system to contact an applicant by telephone or to arrange an interview with an applicant if his application had been returned for more than two times.

Long time taken for random checking of income and assets

32. To deter false declarations by applicants, annual random checks on income and assets for 300 applications (120 newly-registered applications under the purview of the Registration and Civil Service Unit ("RCSU"), and 180 applications in flat allocation stage under the purview of the LU) would be conducted by the Public Housing Resources Management Sub-section ("PHRM") of the Estate Management Division of the HD.

33. The Committee noted from paragraph 2.75 of the Audit Report that the average case investigation time in the past five years from 2008-2009 to 2012-2013 increased significantly by 43% and 72% for referrals from the RCSU and LU respectively. In 2012-2013, the average case investigation time was more than five months (156 and 165 days for referrals from the RCSU and LU respectively), exceeding the agreed timeframe of three months. The Committee asked whether the HD had put in place any measures to remedy the deficiency.

34. **Mr Tony LIU, Assistant Director of Housing (Estate Management)** said that:

- the unduly long investigation time taken by the PHRM was not desirable since it delayed the PRH application and flat allocation process for those affected;
- the HD had investigated into the reasons for the unduly long time taken by the PHRM for the random checking of income and assets. It was found that the unduly long investigation time was mainly attributed to the uncooperative applicants who did not follow the scheduled date to attend the interview or did not produce the relevant supporting documents such as employment certificates; and
- the HD had in August 2013 strengthened its guidelines and reminded the investigators to follow the established timeframe in checking the income and assets of PRH applicants. To tighten the monitoring and supervision, the investigators were required to report to their supervisors for cases that could not be completed within the prescribed timeframe (i.e. three months) whereas the supervisors were required to review the investigation progress regularly to ensure timely completion of all investigations.

C. Maximizing the rational utilization of public rental housing flats

Management and control of unoccupied flats

Speeding up the letting of long vacant flats

35. As reported in paragraphs 3.4-3.5 and 3.9 of the Audit Report, as at 31 March 2013, there were 12 471 unoccupied flats, representing about 1.7% of the total stock of PRH flats. The HD classified the unoccupied flats as "unlettable", "lettable vacant" or "under offer" flats⁷. In calculating the vacancy rate, the HD used the formula "number of lettable vacant flats divided by the lettable stock" and only counted the number of lettable vacant flats as vacant flats. As at 31 March 2013, the 4 370 unlettable flats and 3 964 "under offer" flats had not been included as vacant flats in calculating the vacancy rate. The HD had launched the Express Flat Allocation Scheme ("EFAS") since 1997 to speed up the letting of those unpopular or

⁷ An "under offer" flat is pending take-up by tenants which, according to the offer letter, is to be completed within two weeks from the date of the letter.

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long vacant flats. In the past three years (2010 to 2012), 2 400, 2 200 and 2 500 flats were pooled under the EFAS respectively.

36. Responding to the Committee's enquiry as to whether the HD had implemented any measures to encourage eligible applicants to take up those unpopular flats with adverse "Environmental Indicator", **Director of Housing** said and **Deputy Director of Housing (Strategy)** supplemented that:

- the EFAS was conducted annually to invite eligible applicants on the WL to take up the less popular or long vacant flats. Flats offered for letting under the EFAS exercises included those unpopular flats with adverse "Environmental Indicator", such as loan shark/murder/suicide cases, flats at remote locations, and long vacant flats;
- flats with vacant period over nine months, flats with high refusal rates, Housing for Senior Citizen ("HSC") Type II units, Converted Interim Housing units, or flats with adverse "Environmental Indicator" would be pooled under the EFAS; and
- the following measures had already been put in place to help boost the acceptance rates of these flats:
 - (a) there were four rounds of flats pooling conducted every year (i.e. two rounds for family flats and two rounds for one-person flats);
 - (b) for flats which were selected in the first round flat selection of an EFAS exercise but subsequently rejected by applicants, they would be pooled for the second round flat selection under the same exercise;
 - (c) for flats which failed to be let out for more than 12 months, tenants taking up such flats were entitled to half rent reduction for eight to 12 months upon acceptance of the offer; and
 - (d) for flats which were not let out despite repeated attempts, the HD would explore alternative usage. Examples included the conversion of rental flats at Tin Lee House, Lung Tin Estate into HOS flats for sale.

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37. At the request of the Committee, **Secretary for Transport and Housing** provided, after the public hearings, the number of EFAS flats taken up each year by family applicants, single elderly applicants and QPS applicants respectively from 2010 to 2012, and an account of the progress made in the letting of those flats pooled under the EFAS in 2013 (in Appendix 28).

38. The Committee noted from paragraph 3.10 of the Audit Report that the HD reported 4 137 vacant flats available for letting as at 31 March 2013. Audit's analysis of the vacancy periods for these vacant flats showed that 21% (887) had been vacant for one year or more, and about 2% (76) for five years or more. Out of the 887 flats which had remained vacant for over one year, 470 (53%) flats had not been included in previous EFAS exercises.

39. As to why the 470 flats had not been included in previous EFAS exercises, **Secretary for Transport and Housing** replied in his letter of 12 December 2013 (Appendix 28) that:

- out of the 470 flats, 203 were vacant but not let out flats which were not classified as "less popular flats" because they had been reserved under various rehousing categories such as government clearance projects, estate clearances, etc.;
- 150 flats were either under offer at the time of flat pooling with offer rejected after finalization of the EFAS flat list; or failed to let out for not more than nine months at the time of flat pooling. Hence, they did not meet the flat pooling criteria;
- 116 flats were reserved by estates or the LU for various types of transfer use; and
- the remaining flat was a former Converted One Person ("C1P") flat and was only available for letting on 19 March 2013.

40. Making reference to Table 17 in paragraph 3.10 of the Audit Report, the Committee enquired whether the HD had taken any measures to expedite the letting of the 46 flats that had remained vacant for 10 years or more as at 31 March 2013.

41. **Deputy Director of Housing (Strategy)** advised that:

- these 46 flats comprised 42 flats in Lung Tin Estate, one C1P flat in Tsui Ping (North) Estate, and three flats in Apleichau Estate, Cheung Hong Estate and Shan King Estate respectively;
- for the 42 flats in Lung Tin Estate, Tai O, the HA had already endorsed the conversion of the rental units in Tin Lee House of this estate to HOS flats for sale;
- as regards the C1P flat in Tsui Ping (North) Estate, the vacant period included the waiting period for departure of the sharing occupant in order to convert the flat back to an independent one; the time required for the flat conversion works and for carrying out structural repairs work at the external wall of the building; and
- of the remaining three flats, one flat in Apleichau Estate had been offered for 42 times; one flat in Cheung Hong Estate and another in Shan King Estate had been offered for 38 times. They had also been pooled for EFAS exercises previously. Those who were willing to take up the flats were entitled to 12-month half rent reduction. These flats were still not let out as at 31 March 2013. However, the flats in Shan King Estate and Cheung Hong Estate were successfully let out on 20 May 2013 and 6 December 2013 respectively.

Long time taken for refurbishment of some vacated flats

42. All vacant flats have to be refurbished before re-letting so as to bring the internal finishes and fitting-out of the flats up to a standard acceptable to the prospective tenants. Since 2006, the HD has issued guidelines to allow the re-letting and refurbishment processes to take place in parallel once a flat is vacated so that a vacant flat can be accepted by a prospective tenant as soon as possible and even before the refurbishment is completed.

43. As to how the HD had performed in terms of the average turnaround time for vacant flat refurbishment, **Secretary for Transport and Housing** replied that:

- according to the HD's 2012-2013 Corporate Plan, the target of the average turnaround time for vacant flat refurbishment should not exceed 44 days;

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- for the past three years up to March 2013, a total of about 43 500 vacant flats were refurbished and the average turnaround time was 43.87, 43.55 and 43.85 days in 2010-2011, 2011-2012 and 2012-2013 respectively, which all met the HD's performance pledge of not exceeding 44 days;
- the pledge for vacant flat refurbishment was an average turnaround time. The completion time of refurbishment for each individual flat would vary according to the complexity of the refurbishment works. For example, refurbishment involving extensive structural renovations, serious water seepage repairs and re-roofing works above a vacant flat might lead to a longer time for completion; and
- the flats listed out in Table 18 in paragraph 3.13 of the Audit Report were very special and isolated cases where longer processing time was justified.

44. The Committee noted from Table 18 in paragraph 3.13 of the Audit Report that the refurbishment period (from tenants vacated from flats to completion of refurbishment) was quite long (ranging from five months to more than three years) for five vacant flats selected for Audit's inspection.

45. At the request of the Committee, **Secretary for Transport and Housing** provided, after the public hearings, an account of why the HD had taken so long to complete the refurbishment of these five vacant flats (in Appendix 28).

Monitoring of unlettable flats

46. According to paragraph 3.18 of the Audit Report, the LU is responsible for overseeing the overall utilization and letting position of vacant flats reserved. It monitored the reservation and de-reservation of flats. Different divisions of the HD were allowed to keep a pool of reserved flats to meet their operational needs (e.g. for relocating tenants affected by redevelopment). Some of these reserved flats were classified as "unlettable". Flats reserved for prolonged period without imminent demand should be released to the LU for disposal.

47. On the reasons of reservation of PRH flats, **Assistant Director of Housing (Estate Management)** advised that some of the flats were occupied as quarters by warden and HD staff, some pending demolition or conversion to HOS flats for sale,

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and others were reserved for rehousing residents affected by the redevelopment projects under the Urban Renewal Authority. Reservation of flats was regularly reviewed by the Regional Chief Managers ("RCM"). In light of Audit findings, the HD had shortened the review interval from bi-monthly basis to 1.5-month basis. **Secretary for Transport and Housing** provided, after the public hearings, a breakdown by reasons of reservation on the number of unlettable flats withheld from letting (in Appendix 28).

48. Making reference to Table 19 in paragraph 3.18 of the Audit Report which provided an analysis of the vacancy period of the 4 370 unlettable flats as at 31 March 2013, the Committee asked:

- why 171 HSC Type I flats and 367 C1P flats had remained vacant for 10 years or more; and
- why the vacancy period of 598 unlettable flats was unknown.

49. **Assistant Director of Housing (Estate Management)** explained that:

- the 171 HSC Type I units and 367 C1P units had remained vacant for 10 years or more pending conversion to ordinary PRH flats. These flats had been sub-divided previously into two to four units with shared kitchen and toilet, so that individual senior citizens or single-persons were allocated to individual rooms within the flats. Due to the unpopularity of these units, a phasing-out programme to freeze the letting of HSC Type I units and C1P units was introduced in 2006 and 2000 respectively. As only non-elderly tenants of HSC Type I units would be encouraged to transfer voluntarily, conversion works could only be carried out upon the recovery of the last occupied unit in the flat; and
- as the termination date of the last tenancy of these flats was not available in the Domestic Tenancy Management Sub-system ("DTMS") as at 31 March 2013, the 598 cases were classified as "vacancy period unknown". The 598 unlettable flats included 463 vacant flats which had never been let out before, 73 staff quarters and 62 cases which involved backdated cases and termination of additional room tenancies. In fact, except the 73 staff quarters which were still being occupied, the vacancy period for all the remaining vacant flats had been confirmed upon the retrieval of relevant housefiles.

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50. At the request of the Committee, **Secretary for Transport and Housing** provided, after the public hearings, the numbers of HSC Type I units and C1P units recovered each year from 2008-2009 to 2012-2013, and the resultant numbers of normal PRH flats recovered therefrom (in Appendix 29).

Implementation of the Well-off Tenants Policies

Objective of the Well-off Tenants Policies

51. The HA encourages PRH households who have benefited from a steady improvement in their income and assets to return their PRH flats to the HA for reallocation to families that are more in need of the PRH flats. In 1987 and 1996, the HA implemented the Housing Subsidy Policy ("HSP") and the Policy on Safeguarding Rational Allocation of Public Housing Resources ("SRA") respectively. The HSP and the SRA are collectively referred to as the "Well-off Tenants Policies". According to the Well-off Tenants Policies, tenants with total household income and net asset value both exceeding the prescribed limits, or those who choose not to declare their assets, are required to vacate their PRH flats. The net asset limits are currently set at about 84 times of the 2013-2014 Waiting List Income Limits ("WLILs"). The Committee asked why well-off tenants were not required to vacate their PRH flats when their income exceeded a certain threshold regardless of their asset level.

52. **Secretary for Transport and Housing** advised that when formulating the Well-off Tenants Policies, the HA adopted both income and assets as the two factors in determining the subsidy for PRH tenants since it was considered that tenants with only an increase in income might not be able to afford the downpayment required for the purchase of a private property. Moreover, the total household income might be affected by changes in the overall economic situation of the society, individual trades or an individual's health condition. If there was only an increase in assets but not in income, the tenants might not be able to afford the monthly mortgage payment or the rent for private flats. On the other hand, if both of their household income and assets had exceeded the respective limits, they should be able to afford to purchase or rent an appropriate accommodation in the HOS or private property markets.

Effectiveness in achieving the objective of the Well-off Tenants Policies

53. According to the Hong Kong 2011 Population Census Report, of the 719 511 PRH households in 2011, 188 877 (26%) had income of \$20,000 or more

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per month which had exceeded the 2013-2014 WLIL of \$18,310 per month for a three-person household. Audit noted that the median monthly income for all domestic households in Hong Kong was \$20,200 in 2011. It appeared that many of these PRH households had already benefited from considerable improvement in their income over the years.

54. The Committee noted from Appendix B to the Supplementary Information Sheets presented by the HD at the first public hearing (in *Appendix 30*) that on average, 450 flats were recovered each year from 2008-2009 to 2012-2013 from well-off tenants on various grounds. The Committee however noted from paragraphs 3.36 of the Audit Report that as at 31 March 2013, 20 445 (3%) of PRH households were paying additional rent or market rent under the Well-off Tenants Policies. Amongst them, 18 109 households were paying 1.5 times rent, 2 321 were paying double rent, and 15 were paying market rent.

55. As to why the Well-off Tenants Policies had not been able to induce the well-off tenants to return their PRH flats, **Secretary for Transport and Housing** advised that:

- owing to a severe supply-demand imbalance for public and private housing, the price and rental indices for private residential properties had reached historical high in recent years. The surging property price acted as a disincentive to well-off tenants to purchase their own homes and surrender their PRH flats;
- notwithstanding this, the Administration had taken measures to extend the HOS Secondary Market to White Form Buyers and to expedite the construction of PRH flats with a view to rectifying the long-standing problem of supply-demand imbalance; and
- the Well-off Tenants Policies were always contentious and was one of the discussion items of the LTHS Steering Committee. The LTHS Steering Committee noted the divergent views on the policies in the community. For example, there were views that the HA should examine whether better-off tenants should move out of PRH only when both their income and asset levels exceeded the limits, or when either their income or asset level exceeded the respective limits. There were also views that some of the existing arrangements, such as the initial income declaration period (currently 10 years after in-take into PRH) and the subsequent income and asset declaration period (currently every

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two years after tenants were required to declare their income), might need to be reviewed. The LTHS Consultation Document further invited public's views on the policies and the collected views would be passed to the HA for consideration.

56. At the request of the Committee, **Secretary for Transport and Housing** provided, after the public hearings, the numbers of HOS flats purchased by PRH tenants in the first-hand market and the secondary market without the premium paid over the past five years from 2008-2009 to 2012-2013 (in Appendix 29).

Verification of reasons for HSP exemption

57. As reported in paragraphs 3.32 and 3.34 of the Audit Report, the DTMS contained some essential data fields which facilitated the HSP implementation (e.g. date of initial residence, rent review category, exemption reason, etc.). For households to be exempted from the HSP, an exemption indicator was entered in the DTMS so that these households would not be extracted in HSP cycles. Audit however noted during site visits to estates that some households should be subject to HSP review but were excluded because the exemption indicator was incorrectly input or had not been updated. The Committee asked whether the HD had taken measures to rectify the incorrect data.

58. **Assistant Director of Housing (Estate Management)** responded that:

- memos and email messages had been issued periodically to remind estate staff to counter-check tenants' records so as to rectify any irregularities in the DTMS; and
- each year well before the commencement of HSP cycle, exception reports containing irregular cases were forwarded by the PHRM to Housing Managers ("HMs") of the Domestic Tenancy Management Office ("DTMO")/Estate Office for prompt rectification so as to ensure an accurate retrieval of the HSP cases for income declaration. Commencing from the upcoming April HSP cycle, other than forwarding exception reports to HMs of the DTMO/Estate Office for prompt verification and rectification, a progress report showing those unresolved cases would be delivered to all concerned HMs of the DTMO/Estate Office by PHRM in mid-February. Respective District Senior Housing Managers ("DSHMs") would be informed upon

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completion of the rectification of those outstanding cases by end-February.

Under-occupation of public rental housing flats

Inadequate efforts to tackle the UO issue

59. The HA's long-standing policy is to allocate PRH flats to households having regard to their sizes under the established allocation standards. Due to subsequent moving-out, decease, marriage or emigration of some family members, the remaining members may enjoy more living space than is allowed under the prevailing UO standards, rendering the family an UO household. The HA has put in place a policy requiring a household with living space exceeding the UO standards to move to another PRH flat of appropriate size. From May 2007 to October 2010, households with living density exceeding 35 m² per person would be classified as PUO cases, and households with disabled members or elderly members aged 60 or above had been accorded a lower priority. Up to September 2013, a total of four housing offers would be given to the PUO households on transfer. If the household concerned refuses all the four housing offers without justified reasons, its existing tenancy would be terminated by a Notice-to-Quit.

60. The Committee noted from paragraphs 3.46-3.47 of the Audit Report that in the past seven years, the number of UO households increased by 54% from 35 500 in 2007 to 54 555 in 2013. As at 31 March 2013, 20 845 (38%) of the 54 555 UO households were occupying flats which had exceeded their maximum allocation standards by 50%. In particular, 1 458 (3%) UO households were occupying flats which had far exceeded their maximum allocation standards by 100%. The Committee asked about the challenges facing the HD in the transfer of UO households.

61. **Secretary for Transport and Housing** said and **Assistant Director of Housing (Estate Management)** supplemented that:

- according to the HA's records, there were about 35 500 UO households in 2007. The HA had in 2007 endorsed various interim measures and established the PUO threshold to deal with UO cases in a phased approach. Subsequently, the HA reviewed the UO policy in 2010 and 2013 respectively to revise the PUO threshold to achieve better results;

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- over the past six years, the HD had resolved about 21 000 UO cases, indicating an average of about 3 700 cases resolved each year. However, over the same period, about 40 000 households became UO cases as a result of having their family members moved out or passed away. This accounted for the accumulation of about 54 500 UO cases as at March 2013;
- out of the 21 000 UO cases resolved in the past six years, 5 500 cases were resolved through transfer to smaller flats. Another 9 000 cases had their flats recovered through purchase of a flat under HOS/Tenants Purchase Scheme, voluntary surrender, etc. Of the remaining 6 500 cases, they were resolved through addition of family members, some of the family members becoming disabled or attaining the age of 60;
- taking into consideration the keen demand from applicants of other rehousing categories and the limited supply of small flats, the HA could only allocate some 1 000 units for the transfer of UO households in 2013-2014. Moreover, the shortage of small flats within the residing District Council constituency of the PUO households might also prolong the handling time for arranging housing offers; and
- the negative reaction of PUO tenants being required to move to smaller flats was one of the challenges the HD had to face. During the implementation of the UO policy, the HD had all along adopted a pragmatic, reasonable and considerate approach to handle every case, particularly those with changes in the household size due to decease of family members. As for cases with medical and social grounds meriting special discretion, estate staff would seek the special approval of RCMs or DSHMs to grant additional offers or temporary stayput at the present flats on individual merits. The HD had adopted a caring yet persistent approach to persuade those concerned to move. Such an approach inevitably took time but had proved to be effective.

Slow progress in dealing with PUO cases

62. In 2007, the HA endorsed measures to deal with the UO households in order of priorities beginning with handling those PUO cases. As at 31 March 2013, about 3% (1 765) of the 54 555 UO households were classified as PUO cases.

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63. As to why 749 (43%) of the 1 765 PUO cases had remained outstanding for two years or more, **Assistant Director of Housing (Estate Management)** advised that of these 749 PUO cases, some 20 cases, such as staff quarters, estates under Estate Clearance Project, etc. were exempted from the transfer of UO cases. Moreover, some of the cases, such as pending family reunion or on other medical or social grounds, had been approved for temporary stay. Also, the delay for some cases was due to the limited supply of small flats within the same estate or the same District Council constituency of the households residing. Up to 30 November 2013, the number of outstanding PUO cases had been further reduced to 486.

Transfer of UO households

64. As revealed in paragraphs 3.54 and 3.56 of the Audit Report, over the past six years, Audit noted that only 5 512 UO households (i.e. an average of 919 households a year) were successfully transferred by the HD. Out of the 54 555 UO households as at 31 March 2013, only 2 403 (4%) households had been given housing offers. Since the implementation of the PUO policy in 2007 and up to August 2013, the HD had issued notices-to-quit to 4 PUO households. Subsequently, one tenancy of a PUO household was terminated and the other cases were rectified. The Committee asked:

- whether the HD had/would put in place any improvement measures to tackle the UO issue; and
- whether consideration would be given to offering a higher level of Domestic Removal Allowance ("DRA") in order to encourage UO households' transfer to smaller flats.

65. **Assistant Director of Housing (Estate Management)** said and **Secretary for Transport and Housing** stated in his letter of 12 December 2013 (Appendix 28) that:

- the HA had in June 2013 endorsed new arrangements for tackling UO in PRH. Upon implementation of the revised measures in October 2013, new PUO households would be given a maximum of three housing offers with a view to expediting their transfer to smaller flats, and the threshold of PUO had been tightened leading to more families becoming PUO households that required transfer;

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- of the remaining 28 255 (i.e. 54 555 minus 26 300) UO cases, some 13 000 cases involved elderly aged 60 or above but below 70 would be placed at the end of the UO list for transfer until the next review. The HA would review the policy after three years of implementation; and
- the granting of DRA to tenants was intended to meet part of the costs of removal and basic fitting-out works. The DRA rates were pegged with those adopted by the Government which were reviewed annually by an inter-departmental Compensation Review Committee in accordance with the basis approved by the Finance Committee of LegCo, and approved by the Secretary for Financial Services and the Treasury under the delegated authority. The same set of DRA rates was applicable to all HA's clearance projects as well as UO and management transfers.

66. At the request of the Committee, **Secretary for Transport and Housing** provided, after the public hearings, the numbers of PRH flats recovered due to issuance of notice-to-quit, voluntary surrender and tenants moving out of PRH upon purchase of HOS flats in the past five years (in Appendix 29).

D. Tackling abuse of public rental housing

Checking of eligibility of applicants

Supporting documents for preliminary vetting

67. In applying for PRH, an applicant must submit the completed application form together with the required supporting documents to the Applications Sub-section for preliminary vetting of his eligibility for registration. As reported in paragraph 4.4 of the Audit Report, whilst applicants were required to provide supporting documents relating to the declared income and assets, in practice, supporting documents relating to investments and deposits were exempted for pre-registration vetting. Given that investments and deposits were the most common types of assets usually possessed by PRH applicants, the Committee queried why supporting documents were required for other assets that were seldom possessed by low-income applicants, but not required for assets they usually possessed.

68. **Director of Housing** explained and **Mrs Rosa HO, Assistant Director of Housing (Housing Subsidies)** supplemented that:

- considering the fact that the value of investment and bank deposits would change over time, at present, the HA did not require PRH applicants to submit supporting documents on investments and bank deposits at the time of application. This also expedited the pre-registration vetting and allowed applicants to be registered on the WL within a pledged time of three months;
- the HA had relied on an honour system and requested applicants to declare their asset amount at the time of application and for them to notify the HA of any changes in the information after registration;
- to determine their eligibility for PRH, applicants were requested to submit all supporting documents at the detailed vetting stage, which was closer to the time of flat allocation;
- to maintain the integrity of the system, the PHRM of the HD would conduct detailed investigations through random selection of the WL applicants both at the pre-registration vetting stage and at the detailed investigation stage; and
- the current system struck an appropriate balance between asking the applicant to submit too many supporting documents at the application stage, hence delaying the application process on the one hand, and guarding against the false submission of information on the other. The HA would keep in view the possibility to require the submission of documentation relating to investments and bank deposits at the application stage.

In-depth checking of selected applications

69. As reported in paragraphs 4.10-4.11 of the Audit Report, the HD only selected a small sample of applications for in-depth checking of PRH applications (120 from newly-registered applications and 180 from applications in the process of flat allocation) each year. In total, only 300 applications a year were selected for in-depth checking, representing only a small percentage of the number of applications on the WL. However, newly-registered applications had a high rate of false declaration detected (35% in 2012-2013) as compared with applications in the process of flat allocation (2% in 2012-2013); and the rates of detected false

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declarations for both types of application were increasing in recent years (particularly 2012-2013). To better manage the WL for PRH and to eliminate ineligible applicants before their registration on the WL, the Committee asked whether consideration would be given to extending the in-depth checking to all new applications.

70. **Director of Housing** responded that as there might be changes in the applicants' income and assets whilst waiting for PRH, eliminating ineligible applicants at the pre-registration vetting stage did not necessarily guarantee the eligibility of all applications at the time the first housing offer was made. Given the resources constraint, the HD did not consider it appropriate to conduct the in-depth checking of the applicants' income and assets on a repeated basis. To ensure the rational utilization of the public housing resources, the HD had relied on the detailed investigation on applicants due for flat allocation to ascertain the eligibility of applicants. Besides, any in-depth and detailed checking before an applicant was registered on the WL would inevitably consume more vetting resources and lengthen the pre-registration period. This was contrary to the original intent of expediting the process to ascertain the eligibility of applicants to be registered into the WL. Subject to resources constraint, the HD would make adjustment to the numbers of new applications selected at different stages of the application process for in-depth checking. The HA would also keep in view the possibility to require the submission of documentation relating to investments and bank deposits at the application stage.

Follow-up actions on false declarations

71. As revealed in paragraph 4.14 of the Audit Report, amongst the 67 newly-registered applications detected by the PHRM to contain false declarations over the past five years, the RCSU had followed up 46 cases as at end-July 2013. All of these 46 applications were cancelled and referred to the Prosecutions Section for further enforcement action; and amongst the nine applications in the process of flat allocation detected by the PHRM to contain false declarations over the past five years, the Waiting List Unit ("WLU") had followed up eight cases up to the end of July 2013. In one case, the WLU did not find any false declarations. For the other seven cases, the WLU cancelled the applications on three cases and referred two cases to the Prosecutions Section for further enforcement action.

72. As to whether the HD would align the practices within the Applications Sub-section between the RCSU and the WLU in handling false declaration cases at different stages of the application process to ensure fairness in treatment, **Director of**

Housing replied in the positive and said that an internal guideline was issued on 21 October 2013 to that effect.

Processing of household declarations under the Well-off Tenants Policies

73. Under the HSP, tenants are required to declare the monthly income of all household members every two years in an income declaration form. Under the SRA, tenants are required to declare the net asset value of all household members every two years in an asset declaration form. Each HSP 2-year cycle involves around 343 000 households.

74. As reported in paragraph 4.27 of the Audit Report, from 2008-2009 to 2012-2013, on average, about 156 000 households were required to submit their income/asset declarations to the HD each year. During the period, the PHRM checked, on average, some 3 700 cases (or 2.4% of the households subject to declarations) a year, and some 650 cases (18% of the sample checked) were found to contain false declarations. The false declaration rate appeared to be high. The Committee asked whether the HD had/would put in place any measures to address the high rates of false declarations by PRH tenants under the Well-off Tenants Policies.

75. **Secretary for Transport and Housing** responded and **Director of Housing** supplemented that:

- to deter and detect false declarations, the HD had adopted a three-pronged approach viz. detection and prevention, in-depth investigation and operation as well as publicity and education;
- the HD's frontline management staff conducted initial checking on the income and assets declarations from all PRH tenants and referred doubtful/marginal cases to the PHRM for in-depth investigation. In addition, the PHRM also carried out in-depth investigations on randomly-selected cases and all double rent cases;
- checkings of PRH tenants' income and asset declarations under the Well-off Tenants Policies involved obtaining information on property search, rateable value and size of landed properties, vehicle ownership and business registration from relevant departments as well as enquiries from banks and employers;

Allocation and utilization of public rental housing flats

- the management of the HD would review and revise as appropriate the current guidelines for conducting in-depth checking and remind staff for compliance. Supervisors would also closely monitor the investigation and offer advice to investigators in doubtful cases;
- in 2013-2014, besides strengthening detective measures from frontline management staff, 30 extra experienced estate staff were deployed to the Central Team to step up action to tackle tenancy abuses and to conduct 5 000 additional checks of tenants' income/assets declarations; and
- furthermore, the education and promotion programmes to promote awareness of the need of proper use of public housing resources had been strengthened.

76. At the request of the Committee, **Secretary for Transport and Housing** provided, after the public hearings, information on the money spent on implementing the Well-off Tenants Policies in the past two years and the amount of additional rent received from well-off tenants over the same period (in Appendix 28).

Flat inspections under the Biennial Inspection System

77. With effect from 1 November 2008, the HD has implemented the Biennial Inspection System to replace the previous declaration system. Within a 24-month cycle, all flat inspections in the respective estates have to be completed. To address the potential abuse problem, the HD relies much on the flat inspections conducted by estate staff and considers the flat visit to be the most direct and effective means of detecting tenancy abuses such as non-occupation, occupation by unauthorized persons and subletting. The estate staff also need to ascertain the occupancy position when a tenancy has changes in the household size (e.g. addition or deletion of household members).

78. On the cost-effectiveness of the Biennial Inspection System, **Assistant Director of Housing (Estate Management)** advised that:

- at present, about 970 HD staff working in frontline estate offices and DTMO were required to conduct the biennial flat inspection ("BI"). Assuming an Housing Officer takes 10 minutes to complete a BI, it was estimated that a staff cost of about \$17 million was incurred annually for conducting the BI for detecting UO households;

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- the main reason for PRH tenants becoming UO households was that family members departed or died, leading to their deletion from the PRH tenancy. Very often, by conducting the BI, the HD could obtain the information about the departure of the concerned family members. For detection of deceased family members, the Registrar of Births and Deaths had been providing HD with monthly reports of deceased person records. By carrying out record matching, the HD could have updated information on deceased person records who were residing in PRH flats; and
- in the course of conducting the BI, not only had tenancy abuse cases been detected by the HD staff, the special needs of some tenants had also been identified by the HD staff and timely referrals could have been made.

Enforcement actions

Prosecution of WL applicants making false declarations

79. The PHRM acts as a central team to conduct in-depth investigations including the taking of cautioned statements on false statement cases. The Prosecutions Section of the Legal Service Sub-division is delegated the authority by the Department of Justice ("DoJ") for taking prosecution action for various offences under the Housing Ordinance and other Ordinances. Applicants for PRH and existing PRH tenants are required to declare their household income and/or assets and family particulars in order to assess their eligibility or continuing eligibility under various housing management policies. Should they knowingly make any false statements, they commit an offence under section 26(1) of the Housing Ordinance. Most of the offences under the Housing Ordinance are summary offences and there is a time bar for their prosecution. Both the date of discovery of the offence and the date of commission of the offence are relevant for the determination of time bar. No prosecution can be taken if the time bar has passed.

80. The HD adopts an honour system in processing declarations from PRH applicants and tenant's declarations, and only requests applicants/tenants to supply minimal supporting documents. Without full supporting documents, it would be difficult for the HD staff to detect any false statements at an early stage and take further enforcement action.

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81. Making reference to Table 33 in paragraph 4.63 of the Audit Report, the Committee asked why the number of false declaration cases referred by the Applications Sub-section to the Prosecutions Section had decreased over the past five years, from 48% in 2008-2009 to 14% in 2012-2013.

82. **Mrs Kitty YAN, Assistant Director of Housing (Legal Service)** explained and **Secretary for Transport and Housing** stated in his letter of 12 December 2013 (Appendix 28) that:

- prosecution rate was calculated on the basis of the number of cases referred to the Prosecutions Section for consideration of prosecution action as against the number of cases in respect of which prosecution action was ultimately taken;
- as a decision whether or not to prosecute depended on the sufficiency of available evidence in satisfying the relevant burden of proof for a conviction, the fact that the prosecution rate was low might simply mean that the available evidence in many of the cases submitted to the Prosecutions Section was not sufficient or was not yet sufficient to secure a conviction;
- it would be fundamentally wrong to treat prosecution rate as a benchmark or target for the prosecution's performance as the rate itself depended on the quality of evidence of the incoming cases;
- according to the HD's analysis, there were various reasons for the decrease in prosecution rate, such as changes in the nature of false statement cases, and decreased cases with cautioned statement or interviewing officer. Also, in accordance with the DoJ's Code for Prosecutors, the Prosecutions Section had ceased to offer any directions for obtaining evidence or setting questions for taking cautioned statements since early 2010; and
- the most important principle was that the departmental prosecutors had to strictly follow the Code for Prosecutors issued by the Prosecutions Division of the DoJ and they prosecuted only when all the elements of an offence were present and in an admissible form.

83. As reported in paragraph 4.64(b) of the Audit Report, for the 1 117 cases with no prosecution action, 1 111 (99%) cases were due to insufficient evidence and

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six (1%) cases were due to lapse of the time bar before submission of the suspected cases to the Prosecutions Section.

84. As to whether the HD had taken any follow-up action(s) against the 1 117 false declaration cases with no prosecution action, **Assistant Director of Housing (Estate Management)** advised that:

- for false declaration cases with no prosecution action, frontline staff would interview the individual offenders and serve a warning letter to remind them not to commit the misdeed again;
- for cases of understating income, thus rendering the household eligible for paying less rent, the frontline staff would ask the tenant/licensee, in writing, to pay the new rent derived from the accurate information with immediate effect and to recover the total amount of rent undercharged. As for those not eligible for allocation of PRH, the HD would terminate the tenancy and recover the flat; and
- the 1 117 false declaration cases without prosecution action were largely due to insufficient admissible evidence. Their PRH applications were cancelled on grounds of submission of false information.

85. The Committee noted from paragraph 4.65 of the Audit Report that the conviction rates of those prosecuted cases were very high (over 90% as calculated from Table 32 in paragraph 4.56 of the Audit Report) but the prosecution rate was low (14% in 2012-2013 as shown in Table 33 in paragraph 4.63 of the Audit Report). The Prosecutions Section's analysis showed that the main reason for the low prosecution rate was insufficient evidence to prove the knowingly element of the offences. The Committee enquired about the measures that had been/would be taken to improve the enforcement work of the HD.

86. **Assistant Director of Housing (Estate Management)** advised that:

- the HD staff were reminded to observe the timeframe for prosecution action. For offences discovered and handled by the Estate Office, the housefiles should be forwarded to the Cautioned Statement Team of PHRM for collection of cautioned/witness statements before passing to the Prosecutions Section in accordance with the action timeframe;

- for normal cases, the action time was within 14 working days from the date of discovery; whilst for urgent cases, the action time was shortened to within 2 working days;
- furthermore, estate staff were reminded to use the "Checklist" during initial investigation for the establishment of the knowingly element and recording interview/statements; and
- the HD had in December 2013 issued instruction reminding frontline staff to observe the requirement for submission of the relevant files and documents to the Prosecutions Section in accordance with the action timeframe.

E. Way forward

87. The Committee enquired about the timetable and action plans for the HA to take forward Audit's recommendations.

88. **Secretary for Transport and Housing** replied that:

- on Audit's recommendation for the HD to conduct investigations periodically to identify long-outstanding cases on the WL (paragraph 2.31(b) of the Audit Report refers), the HD had in fact conducted an analysis of the housing situation of WL applicants in 2011, 2012 and 2013 to study, amongst other things, those cases on the WL with longer waiting times. The reports of the analysis had been uploaded to the HA/HD website for public's reference. The HD would continue with the special analyses on an annual basis;
- on Audit's recommendation that the HA should conduct a comprehensive review of the QPS and consider the need to screen out ineligible QPS applicants periodically (paragraph 2.50 of the Audit Report refers), the HA would consider the LTHS Steering Committee's recommendations, views gathered during the three-month public consultation as well as the Audit Report and the comments received during the Public Accounts Committee's hearings, before deciding whether and how to refine the QPS;

Allocation and utilization of public rental housing flats

- the HD would, on an on-going basis, enhance legal training for staff working in the Applications Sub-section and estate offices. Plans in hand included organizing more experience sharing seminars (starting from May 2014), with role-play exercises, with the aim of further strengthening their repertoire of knowledge, skills and abilities required to gather sufficient evidence for handling false declaration cases; and
- with regard to other recommendations accepted by the Administration, actions required were either completed or on-going. Where policy clearance was required for the follow-up action and implementation, they would be referred to the HA or its committees for discussion and endorsement.

89. The Committee asked why the HA, being the statutory body to develop and implement public housing programmes, had not conducted a timely review of the QPS since its inception in September 2005, but had waited for the LTHS Steering Committee's review.

90. **Secretary for Transport and Housing** advised that:

- the Well-off Tenants Policies and the QPS for non-elderly one-person applicants for PRH were controversial issues and there were divergent views in the community. Indeed, when the two issues were discussed at the Subcommittee on Long Term Housing Strategy under LegCo Panel on Housing, divergent views were also expressed by LegCo Members; and
- given the controversy and divergent views of the community on these two subjects, it was only prudent for the HA to take into full account of the recommendations of the LTHS Steering Committee; latest views of various sectors of the community as expressed during the three-month public consultation exercise on the LTHS; as well as the Audit Report and the comments received during the Public Accounts Committee's hearings before forming its considered views and mapping out the way forward.

F. Conclusions and recommendations

91. The Committee:

Overall comments

Effectiveness in achieving the objective of public housing programme

- notes that:

- (a) the Hong Kong Housing Authority ("HA") sets out in its mission statement that it strives to ensure cost-effective and rational use of public resources in service delivery and allocation of housing assistance in an open and equitable manner;
- (b) it is both expensive and time-consuming to build a public rental housing ("PRH") flat. According to the Housing Department ("HD"), the average construction cost for a PRH flat is about \$0.7 million (excluding the land cost), the average operating cost is about \$16,000 per flat per annum and it takes about five years to construct a flat; and
- (c) as at 31 March 2013, out of 8 500 staff in the HD, about 5 000 staff (mainly in the Strategy Division and the Estate Management Division) were responsible for the allocation and management of PRH flats;

- is concerned whether the limited supply of PRH flats is able to meet the ever-increasing demand for PRH, having regard to the following:

- (a) the number of PRH applicants on the Waiting List ("WL") had been surging over the past 10 years (228 000 as at 31 March 2013) and the Average Waiting Time ("AWT") for general applicants had been increasing since 2008-2009 (2.7 years as at 31 March 2013); and
- (b) the supply of PRH flats includes the current plan of the HA to construct about 79 000 PRH flats in the five years from 2012-2013 to 2016-2017, and the surrender of an average of about 7 000 flats recovered every year from existing tenants as well as through enforcement actions against abuse of PRH resources;

Allocation of flats to people in need of public rental housing

- expresses great dissatisfaction and finds it unacceptable that:
 - (a) the HD lacked transparency in informing PRH applicants of the definition and computation method of the AWT which is defined by the HD to cover only the period between registration on the WL and the first housing offer;
 - (b) in the absence of the transparency for the AWT and allocation mechanism for PRH, it was difficult for PRH applicants to make informed decisions on whether to accept the housing offer right away or make alternative accommodation arrangement pending further housing offer;
 - (c) the HD had failed to take a proactive approach in the implementation of the Quota and Points System ("QPS"), which was introduced in September 2005 for the allocation of PRH flats to non-elderly one-person applicants, as reflected by the following:
 - (i) the AWT target of about three years for general applicants is not applicable to QPS applicants;
 - (ii) as at end of March 2013, 112 000 (49%) of the 228 000 applications on the WL for PRH were applications under the QPS;
 - (iii) out of 111 528 QPS applicants registered on the WL as at 31 March 2013, 33 868 (30%) had waited for more than three years; and
 - (iv) assuming that there would not be any new applicants or drop-out cases and with the quota of not more than 2 000 units a year, it would take many years to fully meet the demand of the existing QPS applicants; and
 - (d) the HD had not implemented effective measures to screen out ineligible QPS applicants on a periodic basis, having regard to the following:
 - (i) as at March 2013, about half of the QPS applicants aged below 30 had attained post-secondary or higher education.

Allocation and utilization of public rental housing flats

Some of these better educated applicants might be able to improve their living conditions on their own through income growth; and

- (ii) the waiting times of some 14% applicants under the QPS could be as long as more than five years and these applicants could have become ineligible due to changes in circumstances.

This was not conducive to providing accurate management information for the purposes of planning PRH construction programmes and formulating housing policies/initiatives;

- considers that:

- (a) the HA should make available additional statistics of WL applicants, including the AWT between registration and the second offer, and the AWT between registration and the third offer, as well as information on the vacant stock of PRH resources across districts to help applicants make informed decisions; and
- (b) the HA should reinstate the revalidation check system which was implemented between 1993 and 2000 to eliminate applicants who had become ineligible due to changes in circumstances whilst waiting;

- acknowledges that:

- (a) the Secretary for Transport and Housing ("STH") has agreed to incorporate into the brochure on "Waiting List for Public Rental Housing - Information for Applicants" and into the application form the definition and computation method of average waiting time for PRH applicants by April 2014; and
- (b) the HA will conduct investigations on an annual basis into those cases of general applicants who had waited for five years or more but without any housing offer, with a view to identifying the long-outstanding cases on the WL;

Maximizing the rational utilization of public rental housing flats

- expresses great dissatisfaction that:
 - (a) the HD did not include unoccupied flats which were unlettable or "under offer" in its calculation of the vacancy rate of PRH, although the purpose of the vacancy rate is to indicate the extent to which the HD had maximized the use of PRH resources. As at 31 March 2013, there were 12 471 unoccupied flats (including 4 370 unlettable flats, 4 137 lettable flats and 3 964 "under offer" flats), representing about 1.7% of the total stock of PRH flats (against its pledge of 1.5%);
 - (b) the HD was slow to respond to the issue of long vacant flats which were available for letting, as a result of which the turnover of these long vacant flats was not maximized. As at 31 March 2013, out of the 887 flats which had remained vacant for over one year, 470 (53%) flats had not been included in the previous Express Flat Allocation Scheme ("EFAS") exercises. Out of the 46 vacant flats which had remained vacant for 10 years or more, 42 flats had been endorsed by the HA for conversion to Home Ownership Scheme ("HOS") flats for sale;
 - (c) the excessive time taken to complete refurbishment of vacant flats had resulted in an unnecessarily long waiting time for the prospective tenants. The refurbishment (including the time pending refurbishment) for some flats selected for audit inspection had taken five months to more than three years to complete. According to the HD's 2012-2013 Corporate Plan, the target of the average turnaround time for vacant flat refurbishment should not exceed 44 days;
 - (d) inadequate efforts had been made by the HD to achieve the objective of the Well-off Tenants Policies, i.e. to encourage the well-off households (those who opt not to declare assets or whose net asset value exceeds 84 times of the 2013-2014 Waiting List Income Limit ("WLIL")) to return their PRH flats to the HA for reallocation to families that are more in need of subsidized housing, thereby ensuring the rational utilization of scarce PRH resources; and

Allocation and utilization of public rental housing flats

- (e) the HD had made slow progress in dealing with the transfer of the prioritized under-occupied ("PUO") households to smaller flats, in spite of an annual staff cost of about \$17 million on conducting the biennial flat inspections for detecting UO households. As at 31 March 2013, out of 1 765 PUO cases, 749 (43%) cases had remained outstanding for two years or more and 16 (1%) cases had remained outstanding for five years or more;
- considers that:
 - (a) the HA should take additional measures to ensure better utilization of those unlettable flats and higher turnover of those "under offer" flats; and
 - (b) the HA should adopt more effective measures to expedite the recovery from well-off tenants and UO households of PRH flats, as well as the conversion of Converted One Person ("C1P") flats and Housing for Senior Citizen ("HSC") flats into normal PRH flats to increase the supply of PRH flats;

Tackling abuse of public rental housing

- expresses great dissatisfaction and finds it unacceptable that:
 - (a) the HD had been fudging the issue of exemption of submission of supporting documents for investments and deposits at the date of application, despite the facts that:
 - (i) newly-registered applications had a high rate of false declaration detected as compared with applications in the process of flat allocation; and
 - (ii) submission of supporting documents at the date of application for investments and deposits would deter PRH applicants from taking the risk of making false declarations;
 - (b) the HD had not adopted a risk-based approach in the conduct of in-depth checking of PRH applicants in that the HD only selects a small sample of 300 applications (120 from newly-registered applications and 180 from applications due for flat allocation) each year, disregarding the high rate of false declarations detected amongst newly-registered applications;

Allocation and utilization of public rental housing flats

- (c) differential treatment was accorded by the HD to applications with false declarations at different stages of the application process. The Waiting List Unit ("WLU") would cancel applications with false declarations only if the irregularities found had affected the applicants' eligibility for applying PRH, and referrals to the Prosecutions Section would be made for cancelled cases only if the WLU considered that there was sufficient evidence of false declarations knowingly made. On the contrary, the Registration and Civil Services Unit ("RCSU") would cancel all such applications with false declarations and refer the cases concerned to the Prosecutions Section; and
 - (d) the HD staff was too slow to pass the relevant files and documents to the Prosecutions Section for further enforcement action, as a result of which no prosecution could be taken after the time bar. Based on the statistics kept by the Prosecutions Section, for 28 (2%) and 12 (2%) cases in 2011 and 2012 respectively, the relevant files and documents were submitted to the Prosecutions Section after the time bar;
- considers that the HA should tighten its guidelines and controls on tackling false declarations by WL applicants and well-off tenants as well as suspected abuse cases of PRH resources, and ensure timely enforcement actions to be taken against such cases to achieve its deterrent effect;

Way forward

- notes that:
 - (a) in September 2013, the Long Term Housing Strategy ("LTHS") Steering Committee, chaired by the STH, produced a consultation document on the LTHS for three months' public consultation which ended in December 2013, and the LTHS Steering Committee would submit a report on the public consultation thereafter; and
 - (b) the HA will take into account views expressed in the consultation document, those received from the public, as well as Audit's observations and recommendations in formulating the LTHS and relevant policy measures (including whether and how to refine the QPS);

- considers that:
 - (a) the HA should play a more proactive role in implementing improvement measures to address the changing housing needs of the community, and conducting timely review at acceptable intervals on the effectiveness of the public housing programmes under its purview in achieving their objectives, instead of merely awaiting the review of the LTHS Steering Committee; and
 - (b) the HA should, in taking forward the recommendations of the LTHS Steering Committee, satisfy itself that any modifications to the QPS are conducive to ensuring the effectiveness and sustainability of the QPS in achieving its objective; and the improvement measures will be delivering the intended outcome and value for money;

Specific comments

Allocation of flats to people in need of public rental housing

- expresses great dissatisfaction and finds it unacceptable that HD had failed to ensure transparency of the AWT and had not implemented measures to identify the long-outstanding applications on the WL in that:
 - (a) despite the importance of the AWT to PRH applicants, the definition of the AWT and its basis of calculation are not readily disclosed through common channels accessible to the general public;
 - (b) as at 31 March 2013, 29% (or more than 33 600) of general applicants on the WL had already waited for three years or more for the allocation of PRH. In particular, 7% (or more than 7 550) had waited for five years or more; and
 - (c) in a special exercise conducted by the HD in 2012, for 860 out of about 1 400 general applications on the WL with waiting time of five years or more but without any housing offer, no mention had been made in the investigation report as to whether there were valid reasons for the long waiting times or whether they were just omissions;

Allocation and utilization of public rental housing flats

- expresses great dissatisfaction and finds it unacceptable about the HD's management of the QPS and the effectiveness of the points system of the QPS in achieving its objective, having regard to the following:
 - (a) there is a built-in incentive for applicants to apply for PRH early (best at the minimum age of 18) under the QPS even though they may not have a pressing need for housing, and this may have been a catalyst for the increasing number of PRH applications in recent years;
 - (b) it would take many years to fully meet the demand of the existing QPS applicants (more than 111 500 as at 31 March 2013), given that the annual PRH allocation under the QPS is set at 8% of the number of PRH flats to be allocated to WL applicants, subject to a ceiling of 2 000 units;
 - (c) using the total number of QPS applicants on the WL to forecast the demand for PRH can be misleading, as about half of the 60 300 QPS applicants aged below 30 as at March 2013 had attained post-secondary or higher education and might be able to improve their living conditions on their own through income growth and eventually drop out of the QPS; and
 - (d) screening out ineligible QPS applicants from the WL has not been performed periodically, notwithstanding the fact that the time gap between registration and investigation of applicants could be more than five years. Many QPS applicants on the WL may have become ineligible due to changes in circumstances whilst waiting and this will inflate the demand for PRH and provide misleading management information for the purposes of planning PRH construction programmes and formulating housing policies/initiatives;

- expresses great dissatisfaction and finds it unacceptable that the HD had not adopted effective measures to streamline the processing of PRH applications, as evidenced by the following:
 - (a) records of some applicants who had already been housed in PRH were not deleted from the WL;
 - (b) many applicants did not use the appropriate declaration forms to support their applications, resulting in the need for resubmission;

Allocation and utilization of public rental housing flats

- (c) for the past five years, on average 45% PRH applications had to be resubmitted and, in particular, 9% applications had to be resubmitted more than once before they were accepted for registration; and
 - (d) the Public Housing Resources Management Sub-section ("PHRM") took more than three months on average to complete the random checking of income and assets for an application, and the unduly long time taken for such checking would delay the PRH application and flat allocation process for those affected;
- notes that:
- (a) the HD will conduct regular checks to ensure that follow-up actions are promptly taken on WL applicants who have been housed through other channels;
 - (b) the LTHS Steering Committee supports the HA's policy that priority should continue to be given to general applicants for PRH flats, and has looked at ways to better manage the PRH demand and refine the existing measures on rationalization of PRH resources, including the QPS, with a view to increasing PRH supply; and
 - (c) the Director of Housing has agreed with the audit recommendations in paragraphs 2.31, 2.50 and 2.79 of the Director of Audit's Report ("Audit Report");
- considers that:
- (a) the HA should enhance the transparency of the AWT for general applicants and QPS applicants, by making public the AWT between registration and the second offer, and the AWT between registration and the third offer;
 - (b) the HA should review the points system of the QPS with a view to introducing improvement measures and formulating the intended outcome of implementing the QPS;
 - (c) the HA should set an AWT target for QPS applicants as far as practicable, taking account of the anticipated supply of PRH flats and the genuine demand of QPS applicants for PRH;

Allocation and utilization of public rental housing flats

- (d) the HA should expeditiously implement measures to periodically screen out ineligible QPS applicants pending flat allocation; and
 - (e) the HA should formulate a mechanism whereby the operation of the QPS would be kept under continual monitoring;
- acknowledges that:
- (a) the STH has agreed to incorporate into the brochure on "Waiting List for Public Rental Housing - Information for Applicants" and into the application form the definition and computation method of the AWT for PRH applicants by April 2014;
 - (b) the HA will provide more guidance to applicants by revising the application form, the brochure on "Waiting List for Public Rental Housing - Information for Applicants" and the video clip to advise applicants where to obtain the declaration forms and the proper use of the forms. The materials will be ready in April 2014;
 - (c) for resubmitted applications, the HD had included in the reply letter to the applicants concerned the list of outstanding information which an applicant needs to supplement, together with his submission for the applicant to follow up;
 - (d) the HD had in August 2013 revised the relevant guidelines to expedite the PHRM's efforts to conduct the random checking of income and assets of WL applicants; and
 - (e) the HD had put in place measures to conduct random checking of outstanding deceased person records on a periodic basis, as well as adopted a risk-based approach in selecting all long outstanding cases of deceased persons' record for checking;

Maximising the rational utilisation of public rental housing flats

- expresses great dissatisfaction that the HD had not attached great importance to the rational utilisation of PRH resources, as reflected by the following:
- (a) there were many unoccupied flats which were unlettable or "under offer" and the numbers of these flats were not disclosed when information on the vacancy rate of the PRH was released;

Allocation and utilization of public rental housing flats

- (b) during audit site visits, many "under offer" flats were found vacant for more than three months, and some for over a year;
 - (c) as at 31 March 2013, 21% (887) of lettable vacant flats had been vacant for one year or more, and 2% (76) for five years or more. Some 470 of these vacant flats had not been put under the EFAS to speed up the letting of these flats;
 - (d) the refurbishment period (from tenants vacated from flats to completion of refurbishment) for some vacant flats inspected by Audit was long (ranging from five months to more than three years);
 - (e) as at 31 March 2013, 109 unlettable flats had been frozen from letting and reserved for "operational/management reasons" for more than one year, and no evidence of reservation authority could be found for reserving 35 of these flats;
 - (f) some households should be subject to the Housing Subsidy Policy ("HSP") review, but were excluded because the exemption indicators were incorrectly input or had not been updated;
 - (g) as at 31 March 2013, amongst the 54 555 UO households, 42 164 (77%) cases had remained unresolved for two years or more. In particular, 9 224 (17%) cases had remained unresolved for 10 years or more;
 - (h) as at 31 March 2013, amongst the 1 765 PUO cases, 43% (749) had remained unresolved for two years or more, and about one-third (585) had not been given any transfer offers by HD;
 - (i) as at 31 March 2013, there were 2 405 UO households each occupying two or more PRH flats, including nine one-person households and 224 two-person households each occupying two flats; and
 - (j) as at 31 March 2013, 807 C1P flats and 1 867 HSC flats were classified as unlettable. Many of them had been vacant for five years or more;
- expresses great dissatisfaction and finds it unacceptable that the HD had not taken a proactive approach in implementing the Well-off Tenants

Allocation and utilization of public rental housing flats

Policies and had failed to explore alternative ways to induce well-off tenants to return their PRH flats, having regard to the following:

- (a) the number of flats recovered from well-off tenants over the years was less than satisfactory. According to the HD, an average of 450 flats were recovered each year from well-off tenants in the past five years from 2008-2009 to 2012-2013;
 - (b) with reference to the Hong Kong 2011 Population Census Report, many PRH households should have already benefited from considerable improvement in their income over the years. However, as at 31 March 2013, only 3% of PRH households were paying additional rent under the Well-off Tenants Policies; and
 - (c) the additional rent (i.e. 1.5 times or double net rent plus rates) under the HSP might not be able to induce well-off tenants to vacate their PRH flats as the current rent of PRH is far below the market rent;
- notes that:
- (a) the HD management staff had reviewed the exemption indicators of PRH households and, as a result, rectified some 160 cases;
 - (b) the LTHS public consultation document invited public's views on the Well-off Tenants Policies and the collected views would be passed to HA for consideration; and
 - (c) the Director of Housing has agreed with the audit recommendations in paragraphs 3.24, 3.40 and 3.62 of the Audit Report;
- considers that:
- (a) the HA should enhance transparency of the vacancy rate of the PRH, in particular the number of unoccupied flats which were unlettable or "under offer" should be made public;
 - (b) the HD should step up its efforts to ensure better utilization of unlettable flats and higher turnover of "under offer" flats;

Allocation and utilization of public rental housing flats

- (c) the HD should adopt a more proactive approach in the recovery from well-off tenants and UO households of PRH flats to avail more PRH flats for the needy families and ensure equitable allocation of PRH resources; and
 - (d) the HA should explore alternative ways to expedite the phasing-out of C1P and HSC units as well as the conversion of C1P units and HSC units into normal PRH flats to increase the supply of PRH flats;
- acknowledges that:
- (a) the HA had put in place measures to improve the letting of those long vacant flats. For flats which were not let out for more than 12 months, tenants taking up such flats are entitled to half rent reduction for eight to 12 months upon acceptance of the offer. For flats which were not let out despite repeated attempts, the HA will explore alternative usage, such as conversion of such flats into HOS flats for sale; and
 - (b) the HA had in June 2013 endorsed revised measures to tackle UO cases which included the tightening of the threshold of PUO, leading to more families becoming PUO households that required mandatory transfer to smaller flats. The latest measures which took effect from 1 October 2013 would help increase the supply of PRH flats. The HA will review the policy after three years of implementation;

Tackling abuse of public rental housing

- expresses great dissatisfaction and finds it unacceptable about the HD's lax attitude and lack of rigorous enforcement actions in tackling abuse of PRH resources, as reflected by the following:
 - (a) whilst PRH applicants are required to provide supporting documents relating to the declared income and assets, in practice, supporting documents relating to investments and deposits, which are the most common types of assets possessed by applicants, are exempted from submission for pre-registration vetting;
 - (b) in the past five years, on average, the PHRM checked some 3 700 income/asset declaration cases each year under the Well-off

Allocation and utilization of public rental housing flats

Tenants Policies, and some 650 (18%) cases were found with false declarations. The false declaration rate was high;

- (c) the PHRM did not collect sufficient supporting documents whilst conducting in-depth checking for some income/asset declaration cases under the Well-off Tenants Policies;
 - (d) for some income/asset declaration cases under the Well-off Tenants Policies, Audit noted that inadequate follow-up actions were taken by the PHRM (e.g. warning letters not issued, repeated offence cases not referred to the Prosecutions Section, and under-charged rent not recovered);
 - (e) there were cases of late submission of relevant files and documents to the Prosecutions Section, which affected its timely prosecution actions within the time bar; and
 - (f) the prosecution rate for false declaration cases relating to WL applicants had decreased over the past five years, from 48% in 2008-2009 to 14% in 2012-2013. For the 1 117 cases with no prosecution action, 1 111 (99%) cases were due to the lack of sufficient evidence;
- expresses great dissatisfaction and finds it unacceptable that the HD had not adopted a risk-based approach in deterring false declarations by applicants and tenants, and had failed to apply a consistent treatment to all suspected abuse cases of PRH resources and false declarations in that:
- (a) the HD only selects a small sample of 300 applications (120 from newly-registered applications and 180 from applications due for flat allocation) each year for in-depth checking of PRH applicants, representing only a small percentage of the number of applications on the WL. In particular, newly-registered applications had a high rate of false declarations detected (i.e. 35% in 2012-2013);
 - (b) the flat inspection practices of different estate officers varied and the follow-up actions on some doubtful cases were inadequate to identify possible tenancy abuses; and
 - (c) in comparison, the RCSU had adopted a more stringent practice in handling false declarations by new applicants than that adopted by

Allocation and utilization of public rental housing flats

the WLU on applicants due for flat allocation. The difference in practice might invite questions about the fairness in treating applicants with false declarations found at different stages of the application process;

- notes that:
 - (a) the HD has strengthened the efforts in deterring false declarations by deploying 30 additional experienced staff to increase the number of checks, increasing the publicity budget, and publicizing convicted false declaration cases to draw public attention; and
 - (b) the Director of Housing has agreed with the audit recommendations in paragraphs 4.17, 4.35, 4.51 and 4.68 of the Audit Report;
- considers that PRH applicants should be required to provide supporting documents relating to investments and deposits for pre-registration vetting to deter false declarations by applicants;
- acknowledges that:
 - (a) the HD had in October 2013 issued guidelines to align the practice adopted by the RCSU and WLU in handling false declaration cases found at different stages of the application process;
 - (b) the Director of Housing has undertaken to conduct more in-depth checking of WL applicants each year whilst resources permitting, having regard to the high rates of false declarations detected at different stages of the application process;
 - (c) the HD will, on an on-going basis, enhance legal training for the HD staff working in the Applications Sub-section and estate offices, with the aim of further strengthening their repertoire of knowledge, skills and abilities required to gather sufficient evidence for handling false declaration cases;
 - (d) the HD will step up its efforts in tackling abuse of PRH resources through carrying out rigorous investigations into occupancy-related cases randomly from PRH tenancies and suspected abuse cases referred by frontline management and the public. Furthermore, to detect suspected non-occupation cases,

the HD will launch "Taking Water Meter Readings Operation" in PRH flats or similar operations again in the future; and

- (e) the HD had in December 2013 issued instruction reminding frontline staff to observe the requirement for submission of the relevant files and documents to the Prosecutions Section in accordance with the action timeframe;

Way forward

- notes that:

- (a) in September 2013, the LTHS Steering Committee produced a consultation document on the LTHS for three months' public consultation which ended in December 2013, and the LTHS Steering Committee would submit a report on the public consultation thereafter;
- (b) the HA will take into account views expressed in the consultation document, those received from the public, as well as Audit's observations and recommendations in formulating the LTHS and relevant policy measures (including whether and how to refine the QPS); and
- (c) the STH has agreed with the audit recommendation in paragraph 5.8 of the Audit Report; and

Follow-up action

- wishes to be kept informed of:

- (a) the outcome of the LTHS Steering Committee's public consultation on the review of the QPS and any improvement measures to be implemented with the definite timetable and intended outcome;
- (b) the developments in following up the various recommendations of the LTHS Steering Committee; and
- (c) the definite timetables and action plans as well as progress made in implementing the various recommendations made by Audit and the Committee.

The Audit Commission ("Audit") conducted a review of the Agriculture, Fisheries and Conservation Department ("AFCD")'s work in the protection of country parks and special areas (referred to as "country parks" hereafter).

2. The Committee noted the following findings from the Director of Audit's Report:

- the AFCD patrolled country parks and enclaves (i.e. private or government land surrounded by or adjacent to country parks which was left outside the country park boundaries). There was room for improvement in its patrolling practices (e.g. target patrol frequencies not met, and enclaves not inspected);
- there were 77 enclaves totalled 2 000 hectares ("ha"). In 2010, the Government decided that enclaves would either be incorporated into country parks or had their proper uses determined through statutory planning. At present, 28 enclaves were still not covered by any protective measures; and
- in 1991, the Government approved an encroachment of a landfill onto a site of 18 ha of land in the Clear Water Bay Country Park. There was no definite timeframe for the restoration and return of the 18 ha of land to the AFCD. The land might no longer be compatible with the country park objectives.

3. The Committee did not hold any public hearing on this subject. Instead, it asked for written responses regarding patrolling and law enforcement; regulating incompatible developments; and publicity and education activities. The replies from the **Director of Agriculture, Fisheries and Conservation** are in *Appendix 31*.

4. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by Audit.

Fire protection and prevention work of the Fire Services Department

The Audit Commission ("Audit") conducted a review of the Fire Services Department ("FSD")'s fire protection and prevention work.

2. The Committee noted the following findings from the Director of Audit's Report:

- in 2012-2013, no inspection certificate was submitted to support that the statutorily required annual inspection had been conducted on fire service installations and equipment ("FSIs") installed in 20 690 (44% of 47 000) buildings;
- of 7 662 reported cases of defects in major FSIs in buildings, 67% had remained unresolved for over 100 days;
- from 2008 to 2012, there were on average 26 494 unwanted alarms a year. Unwanted alarms had taxed heavily on FSD resources and induced negative consequences on the community. In 2012, 498 buildings each had 10 or more unwanted alarm cases; and
- due to incomplete data input and system bugs, the FSD had not used its computer system to monitor the compliance with annual inspection requirement of FSIs of licensed premises and ventilating systems.

3. The Committee did not hold any public hearing on this subject. Instead, it asked for written responses regarding monitoring FSIs in buildings; monitoring licensed premises; monitoring ventilating systems; and handling complaints about fire safety. The replies from the **Director of Fire Services** are in *Appendix 32*.

4. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by Audit.

The Audit Commission ("Audit") conducted a review of the implementation of the fire safety improvement programmes under the Fire Safety (Commercial Premises) Ordinance (Cap. 502) since 1997 and the Fire Safety (Buildings) Ordinance (Cap. 572) since 2007.

2. The Committee noted the following findings from the Director of Audit's Report:

- the Buildings Department ("BD") and the Fire Services Department ("FSD") had inspected 72% to 88% of the target buildings/premises. However, six years after the Fire Safety (Buildings) Ordinance came into operation, only 16% and 27% of the directions issued by the BD and the FSD respectively for improving the fire safety provisions of Target Composite Buildings (partly commercial and partly domestic buildings) had been complied with;
- the time target of issuing directions within four months after inspections was not met for over half of the directions issued. Directions to be issued for 534 target buildings/premises were overdue for three or more years;
- 31 450 (47%) of the total 66 374 directions issued by the BD had remained outstanding for an average period of 34 months. Case studies revealed instances of inadequate check on work progress and delay in conducting compliance inspection of completed works; and
- case studies also revealed cases of unauthorized buildings works with fire hazards found during inspections of target buildings/premises by the BD, but had not been promptly followed up, thus prolonging fire risks.

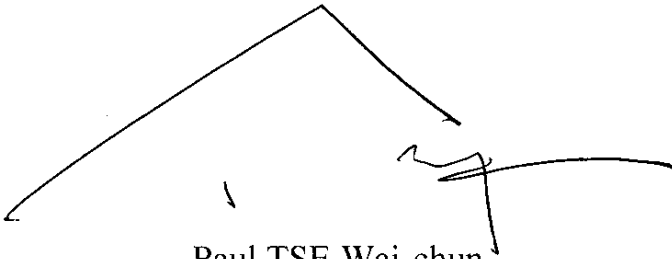
3. The Committee did not hold any public hearing on this subject. Instead, it asked for written responses regarding implementation of fire safety improvement programmes; arrangements for inspections and issuing fire safety directions; administration of fire safety directions issued; and follow-up actions on unauthorized building works found during inspections. The replies from the **Director of Fire Services** and the **Acting Director of Buildings** are in *Appendices 33 and 34* respectively.

4. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by Audit.

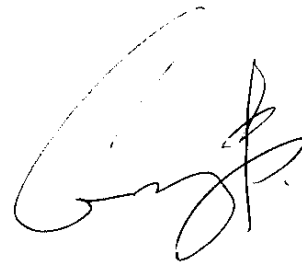
SIGNATURES OF THE CHAIRMAN,
DEPUTY CHAIRMAN AND MEMBERS OF THE COMMITTEE



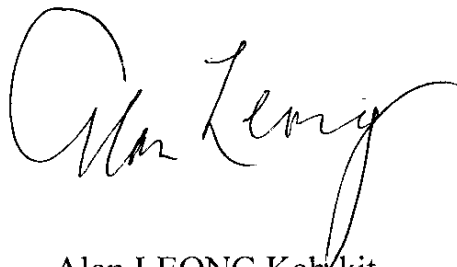
Abraham SHEK Lai-him
(Chairman)



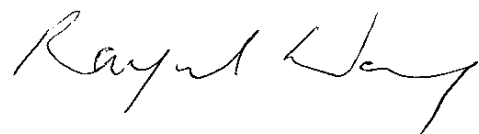
Paul TSE Wai-chun
(Deputy Chairman)



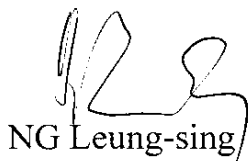
CHAN Hak-kan



Alan LEONG Kah-kit



WONG Yuk-man



NG Leung-sing



Kenneth LEUNG

22 January 2014

**CHAPTERS IN THE DIRECTOR OF AUDIT'S REPORT NO. 61
DEALT WITH IN THE PUBLIC ACCOUNTS COMMITTEE'S REPORT**

**Director of
Audit's Report
No. 61**

**P.A.C.
Report No. 61**

<u>Chapter</u>	<u>Subject</u>	<u>Chapter</u>
1	Direct land grants to private sports clubs at nil or nominal premium	1
2	Management of roadside skips	2
3	Allocation and utilization of public rental housing flats	3
5	Protection of country parks and special areas	4
6	Fire protection and prevention work of the Fire Services Department	5
7	Government's efforts to enhance fire safety of old buildings	6

**RULES OF PROCEDURE OF
THE LEGISLATIVE COUNCIL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION**

72. Public Accounts Committee

(1) There shall be a standing committee, to be called the Public Accounts Committee, to consider reports of the Director of Audit –

- (a) on the accounts of the Government;
- (b) on such other accounts required to be laid before the Council as the committee may think fit; and
- (c) on any matter incidental to the performance of his duties or the exercise of his powers as the committee may think fit.

(2) The committee shall also consider any report of the Director of Audit laid on the Table of the Council which deals with examinations (value for money audit) carried out by the Director relating to the economy, efficiency and effectiveness of any Government department or public body or any organization to which his functions as Director of Audit extend by virtue of any Ordinance or which receives public moneys by way of subvention.

(3) The committee shall consist of a chairman, deputy chairman and 5 members who shall be Members appointed by the President in accordance with an election procedure determined by the House Committee. *(L.N. 214 of 2005)*

(3A) The chairman and 2 other members shall constitute a quorum of the committee. *(L.N. 214 of 2005)*

(3B) In the event of the temporary absence of the chairman and deputy chairman, the committee may elect a chairman to act during such absence. *(L.N. 214 of 2005)*

(3C) All matters before the committee shall be decided by a majority of the members voting. Neither the chairman nor any other member presiding shall vote, unless the votes of the other members are equally divided, in which case he shall give a casting vote. *(L.N. 214 of 2005)*

(4) A report mentioned in subrules (1) and (2) shall be deemed to have been referred by the Council to the committee when it is laid on the Table of the Council.

(5) Unless the chairman otherwise orders, members of the press and of the public shall be admitted as spectators at meetings of the committee attended by any person invited by the committee under subrule (8).

(6) The committee shall meet at the time and the place determined by the chairman. Written notice of every meeting shall be given to the members and to any person invited to attend a meeting at least 5 clear days before the day of the meeting but shorter notice may be given in any case where the chairman so directs.

(7) *(Repealed L.N. 214 of 2005)*

(8) The chairman or the committee may invite any public officer, or, in the case of a report on the accounts of or relating to a non-government body or organization, any member or employee of that body or organization, to give information or any explanation or to produce any records or documents which the committee may require in the performance of its duties; and the committee may also invite any other person to assist the committee in relation to any such information, explanation, records or documents.

(9) The committee shall make their report upon the report of the Director of Audit on the accounts of the Government within 3 months (or such longer period as may be determined under section 12 of the Audit Ordinance (Cap. 122)) of the date on which the Director's report is laid on the Table of the Council.

(10) The committee shall make their report upon the report of the Director of Audit mentioned in subrule (2) within 3 months (or such longer period as may be determined by the Council) of the date on which the Director's report is laid on the Table of the Council.

(11) Subject to these Rules of Procedure, the practice and procedure of the committee shall be determined by the committee.

**Paper presented to the Provisional Legislative Council
by the Chairman of the Public Accounts Committee
at the meeting on 11 February 1998 on
Scope of Government Audit in the
Hong Kong Special Administrative Region -
'Value for Money Audits'**

SCOPE OF WORK

1. The Director of Audit may carry out examinations into the economy, efficiency and effectiveness with which any bureau, department, agency, other public body, public office, or audited organisation has discharged its functions.

2. The term "audited organisation" shall include -
 - (i) any person, body corporate or other body whose accounts the Director of Audit is empowered under any Ordinance to audit;
 - (ii) any organisation which receives more than half its income from public moneys (this should not preclude the Director from carrying out similar examinations in any organisation which receives less than half its income from public moneys by virtue of an agreement made as a condition of subvention); and
 - (iii) any organisation the accounts and records of which the Director is authorised in writing by the Chief Executive to audit in the public interest under section 15 of the Audit Ordinance (Cap. 122).

3. This definition of scope of work shall not be construed as entitling the Director of Audit to question the merits of the policy objectives of any bureau, department, agency, other public body, public office, or audited organisation in respect of which an examination is being carried out or, subject to the following Guidelines, the methods by which such policy objectives have been sought, but he may question the economy, efficiency and effectiveness of the means used to achieve them.

GUIDELINES

4. The Director of Audit should have great freedom in presenting his reports to the Legislative Council. He may draw attention to any circumstance which comes to his knowledge in the course of audit, and point out its financial implications. Subject to these Guidelines, he will not comment on policy decisions of the Executive Council and the Legislative Council, save from the point of view of their effect on the public purse.

5. In the event that the Director of Audit, during the course of carrying out an examination into the implementation of policy objectives, reasonably believes that at the time policy objectives were set and decisions made there may have been a lack of sufficient, relevant and reliable financial and other data available upon which to set such policy objectives or to make such decisions, and that critical underlying assumptions may not have been made explicit, he may carry out an investigation as to whether that belief is well founded. If it appears to be so, he should bring the matter to the attention of the Legislative Council with a view to further inquiry by the Public Accounts Committee. As such an investigation may involve consideration of the methods by which policy objectives have been sought, the Director should, in his report to the Legislative Council on the matter in question, not make any judgement on the issue, but rather present facts upon which the Public Accounts Committee may make inquiry.

6. The Director of Audit may also -

- (i) consider as to whether policy objectives have been determined, and policy decisions taken, with appropriate authority;
- (ii) consider whether there are satisfactory arrangements for considering alternative options in the implementation of policy, including the identification, selection and evaluation of such options;
- (iii) consider as to whether established policy aims and objectives have been clearly set out; whether subsequent decisions on the implementation of policy are consistent with the approved aims and objectives, and have been taken with proper authority at the appropriate level; and whether the resultant instructions to staff accord with the approved policy aims and decisions and are clearly understood by those concerned;

- (iv) consider as to whether there is conflict or potential conflict between different policy aims or objectives, or between the means chosen to implement them;
- (v) consider how far, and how effectively, policy aims and objectives have been translated into operational targets and measures of performance and whether the costs of alternative levels of service and other relevant factors have been considered, and are reviewed as costs change; and
- (vi) be entitled to exercise the powers given to him under section 9 of the Audit Ordinance (Cap. 122).

PROCEDURES

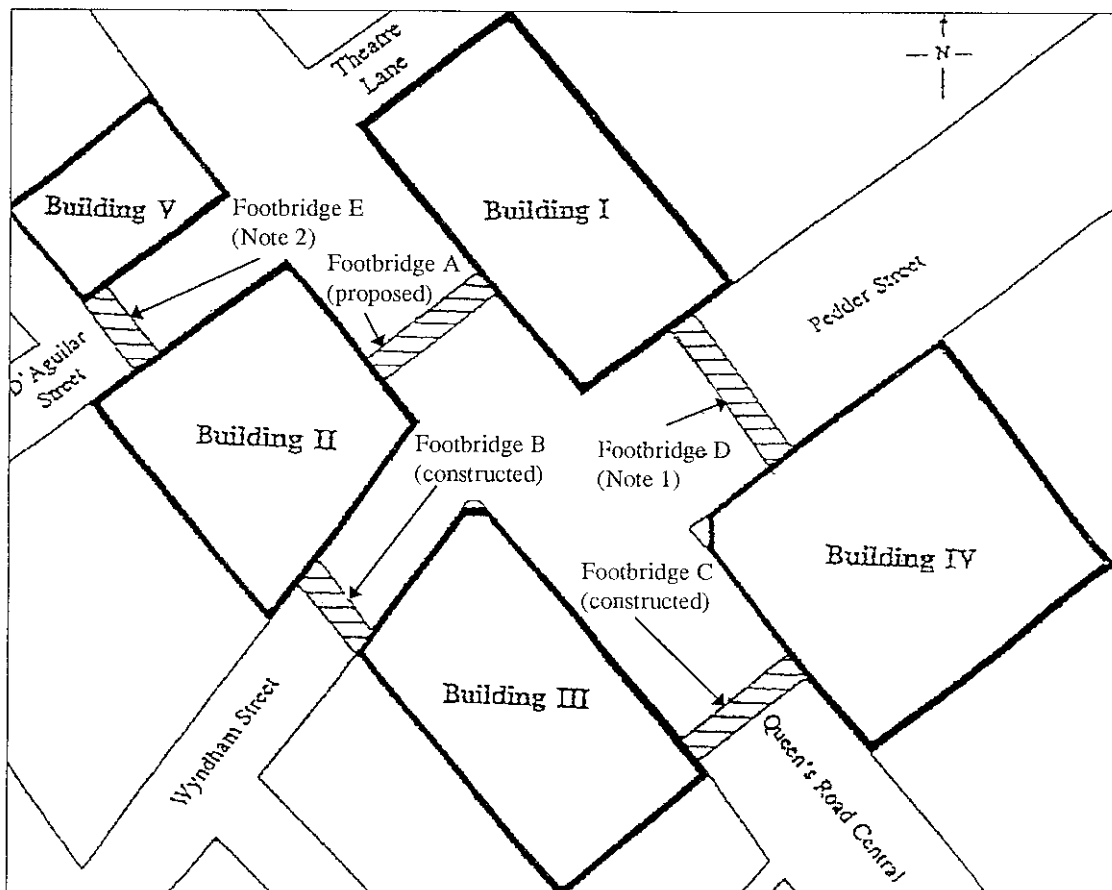
7. The Director of Audit shall report his findings on value for money audits in the Legislative Council twice each year. The first report shall be submitted to the President of the Legislative Council within seven months of the end of the financial year, or such longer period as the Chief Executive may determine. Within one month, or such longer period as the President may determine, copies shall be laid before the Legislative Council. The second report shall be submitted to the President of the Legislative Council by the 7th of April each year, or such date as the Chief Executive may determine. By the 30th April, or such date as the President may determine, copies shall be laid before the Legislative Council.

8. The Director's report shall be referred to the Public Accounts Committee for consideration when it is laid on the table of the Legislative Council. The Public Accounts Committee shall follow the rules governing the procedures of the Legislative Council in considering the Director's reports.

9. A Government minute commenting on the action Government proposes to take in respect of the Public Accounts Committee's report shall be laid on the table of the Legislative Council within three months of the laying of the report of the Committee to which it relates.

10. In this paper, reference to the Legislative Council shall, during the existence of the Provisional Legislative Council, be construed as the Provisional Legislative Council.

Location of the five commercial buildings
and the five footbridges in the Central District



Source: Planning Department records

Note 1: The construction of Footbridge D will be dealt with when a redevelopment proposal for Building IV is received.

Note 2: With reference to Footbridge E, it is pertinent to note that the lease of Building V is an unrestricted lease. The requirement for footbridge connections cannot be incorporated into the lease conditions.

政府總部
發展局
規劃地政科



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Development Bureau
Government Secretariat**

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來函檔號 Your Ref. CB(4)/PAC/CS(58 & 59)

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30 January 2014

By email: sywan@legco.gov.hk

By Fax: 2840 0716

Miss Mary So
Clerk, Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss So,

Follow-up to Public Accounts Committee Report No.39

Small House Grants in the New Territories

Thank you for your letter dated 20 January 2014 to the Secretary for Development.

We noted the concern of Public Accounts Committee (PAC) about the progress of the review of the Small House Policy and thank the PAC for its appreciation of the complexity of the issues involved in the review. The Small House Policy involves many complicated and sensitive legal, human right, land use and planning issues and the interests of different parties and stakeholders, and the review needs to be carried out prudently. As reported in our previous replies to the PAC on this same subject, we have made progress on various fronts. For example, Lands Department has simplified a number of procedures of Small House applications with a view to shortening the processing time.

We must, however, point out that the existing Small House Policy has been in operation for a long period of time, and any major change would entail complex legal, land use and planning issues which require careful consideration and wide consultation. Due to the complexity of the issues involved, we are unable to set a definite timetable within which the review will be completed.

We will continue to adopt a practical approach in taking forward the review and will keep in close liaison with the Heung Yee Kuk. We will consult the relevant stakeholders including the rural and the general community when concrete and specific proposals are available.

Yours sincerely,



(Law Kin-wai)

for Secretary for Development

c.c.	Secretary for Financial Services and the Treasury	2147 5239
	Director of Audit	2583 9063
	Director of Lands (Attn. Ms Olga Lam)	2868 4707

Regulatory Control of Private Hospitals
Progress in implementing the Audit and PAC's recommendations

Para. no.	Audit's/PAC's recommendations	Progress as at September 2013
Part 2: Inspection of private hospitals		
Para. 2.29 of Audit Report	<p>(b) issue advisory/warning letters to private hospitals when serious irregularities are detected during inspections in accordance with DH guidelines; and</p> <p>(d) critically review the adequacy of DH regulatory actions, including the need to step up its actions if serious irregularities identified are not rectified within a reasonable timeframe.</p>	<p>Action completed.</p> <p>The DH finished revising the protocol on regulatory actions against non-compliance by private hospitals in August 2013. Regulatory letters will be issued to remedy serious non-compliance.</p> <p>Action completed.</p> <p>The DH finished revising the protocol on regulatory actions against non-compliance by private hospitals in August 2013. The levels of regulatory actions are commensurate with the severity levels of non-compliance. For serious non-compliance with an impact on public health, the DH will require rectification by the private hospital concerned as part of the registration conditions.</p>
Para. 2.33 of Audit Report	<p>(a) formulate guidelines to assist private hospitals in the closure arrangements in case they intend to cease operation; and</p> <p>(b) develop procedures to assist the DH staff in the inspection work concerning closure of private hospitals.</p>	<p>Action completed.</p> <p>The DH has drawn up a set of guidelines prescribing private hospitals' closure arrangements and the DH's monitoring system. The guidelines came into effect in August 2013.</p>

Para. no.	Audit's/PAC's recommendations	Progress as at September 2013
Part 3: Monitoring of sentinel events and complaints		
Para. 3.21 of Audit Report	<p>(a) closely monitor the effective implementation of the sentinel event reporting system, including issuing advisory/warning letters to private hospitals when they do not follow the required procedures and ensuring that they take prompt remedial actions;</p> <p>(b) consider directly referring cases of sentinel events involving professional misconduct/substandard performance to the Medical Council of Hong Kong or the Nursing Council of Hong Kong for investigation and follow-up;</p> <p>(c) consider issuing guidelines to private hospitals for the surveillance, reporting and management of sentinel events, as well as the setting up of relevant policies and procedures, particularly the criteria for disclosing sentinel events to the public; and</p> <p>(d) consider disclosing in a timely manner the identities of private hospitals and more details of the sentinel events, including the cumulative number of sentinel events for each private hospital.</p>	<p>Action completed.</p> <p>Since 2011, the DH has started issuing advisory letters to private hospitals that fail to report sentinel events to the DH within 24 hours upon occurrence.</p> <p>Action completed.</p> <p>The DH will adopt a proactive approach in referring cases that are suspected of contravening statutory provisions, or of professional misconduct with significant public health impact, to the relevant regulatory authorities of healthcare professionals for follow-up.</p> <p>The DH is reviewing the sentinel event reporting system, including the reporting criteria and disclosure, and will update its guidelines based on the recommendations by the Steering Committee.</p>
Para. 3.22 of Audit Report	Consider aligning the systems and practices for disclosing sentinel events in both private and public hospitals as soon as possible.	

Para. no.	Audit's/PAC's recommendations	Progress as at September 2013
Para. 3.38 of Audit Report	(b) issue advisory or warning letters to private hospitals when serious irregularities are detected during investigation of complaints.	Action completed. The DH finished revising the protocol on regulatory actions against non-compliance by private hospitals in August 2013. Regulatory letters will be issued to remedy serious non-compliance, including those arising from complaints.
Part 4: Price transparency in hospital charges		
Para. 4.17 of Audit Report	Take measures (e.g. by revising the COP) to further enhance the price transparency of private hospitals, taking into account the good practices adopted locally and overseas.	During inspections to private hospitals since 2013, the DH has again reminded private hospitals to observe the requirements for disclosure of price information. The Steering Committee will review and examine measures that would help enhance price transparency, such as disclosure of price information, quotation system, packaged pricing and publication of statistics on hospital charges.
Page 116 of PAC Report	The PAC urges the Administration to: (a) continue to encourage private hospitals to offer more services at packaged charges, thereby enhancing price transparency; and (b) formulate guidelines for private hospitals to adopt standardised format and terminology for their fee schedules for the purpose of facilitating price comparison.	Action completed. The FHB continues to encourage private hospitals to improve payment certainty for patients, in particular those undergoing elective operations/procedures, through packaged pricing or quotation as far as practicable. The Steering Committee is considering measures to enhance price transparency, including standardising the content of fee schedules provided by private hospitals.

Para. no.	Audit's/PAC's recommendations	Progress as at September 2013
Part 5: Performance reporting in the Controlling Officer's Report (COR)		
Para. 5.7 of Audit Report	<p>(a) develop appropriate effectiveness/ outcome indicators in respect of the DH's regulatory work on private hospitals for publication in the COR; and</p> <p>(b) consider providing a breakdown of inspections conducted for each type of healthcare institution in the COR.</p>	The DH will improve its performance/ outcome indicators for regulatory control of private hospitals based on the Steering Committee's recommendations.
Part 6: Way forward		
Para. 6.14 of Audit Report	<p>(a) take into account the audit observations and recommendations, and take on board the findings and recommendations of the 2000 review when conducting a review on the regulatory regime for private healthcare facilities; and</p> <p>(c) explore the possibility of extending the set of special requirements (which are applicable to new private hospital developments) to existing private hospitals, for example through legislative amendments or other administrative measures (including revision of the COP).</p>	<p>The review of the regulatory regimes for private healthcare facilities will take into account the audit observations and recommendations, as well as the findings and recommendations of the 2000 review.</p> <p>The FHB will look into the appropriateness and possibility of extending the set of special requirements to existing private hospitals in the context of the review on the regulatory regimes for private healthcare facilities.</p>

**Land Grants for Private Hospital Development
Progress in implementing the Audit's and PAC's recommendations**

Para. no.	Audit's/PAC's recommendations	Progress as at September 2013
Part 2: Special land grant conditions set on private hospitals		
Para. 5.10 of Audit Report	<p>Audit recommends that the Administration should:</p> <p>(b) for direct land grants made in the past to non-profit-making private hospitals, negotiate to impose appropriate conditions when opportunities arise, to align with the Government's new approach in promoting packaged charging and price transparency; and</p> <p>(c) in the case of LG8 made to Hospital F, specify the Government's requirements clearly for provision of "low-charge beds and service" in the hospital; and</p>	<p>Action completed.</p> <p>The Administration would impose appropriate conditions on non-profit-making private hospitals subject to relevant land grants to align with the latest Government intention.</p> <p>The LandsD has issued internal guidelines to remind staff to liaise with the FHB/DH on including appropriate requirements in private hospital leases when opportunities arise.</p> <p>Action completed.</p> <p>The DH has notified Hospital F of the Government's requirements for provision of low-charge beds. The DH will monitor the implementation of low-charge beds by Hospital F.</p>

Para. no.	Audit's/PAC's recommendations	Progress as at September 2013
	<p>clarify the legal position on whether it is feasible for the Government to impose other additional requirements (such as the 2011 minimum requirements) on the operation of the hospital through the use of the "Compliance with prevailing policies" condition available in the land lease.</p>	<p>Action completed.</p> <p>The 1981 Two Salient Requirements are applicable to the land grant of Hospital F.</p>
<p>Page 152 of PAC Report</p>	<p>The PAC urges the Administration to:</p> <p>(a) delineate clearly their responsibilities for the inclusion or continuance of the Two Salient Requirements in the terms of the PTGs made to non-profit-making private hospitals to ensure that essential requirements are always included in the lease terms in future; and</p> <p>(b) take the opportunity to include the Two Salient Requirements in the land grants made to non-profit-making private hospitals when the grantee applies for lease renewal, lot extension or lease modification to cope with any hospital expansion or redevelopment.</p>	<p>The LandsD is consulting relevant policy bureaux on the draft of a general protocol on matters related to the administration of PTGs, setting out the delineation of responsibilities among bureaux/departments in the processing of PTGs, the incorporation of suitable requirements in the lease or other agreement, and the subsequent monitoring of compliance and enforcement.</p> <p>The LandsD has issued internal guidelines to remind staff to liaise with FHB/DH on including appropriate requirements in private hospital leases when opportunities arise.</p> <p>The Administration would impose appropriate conditions on the land grants for non-profit-making private hospitals to align with the Government intention on those occasions; and</p> <p>The LandsD has issued internal guidelines to remind staff to liaise with the FHB/DH on including appropriate requirements in private hospital leases when opportunities arise.</p>

Para. no.	Audit's/PAC's recommendations	Progress as at September 2013
Part 3: Monitoring and enforcement of land grant conditions		
Para. 5.10 of Audit Report	<p>(e) put in place a proper mechanism and set up the Government's controls to monitor the private hospitals' compliance with the land grant conditions, in particular the provision of "free or low-charge beds" and the "profits/surplus plough-back" requirement;</p> <p>(f) in the case of Hospital D and Hospital F, request the submission of grantees' confirmations and audited accounts to ensure that they have complied with the "profits/surplus plough-back" requirement in the land grants, and look into other issues highlighted in paragraph 3.13 (such as whether related party transactions and profit-sharing arrangements are permissible under the land grant conditions);</p>	<p>The DH and LandsD have been discussing the delineation of responsibilities for monitoring compliance with conditions of private hospital leases.</p> <p>Hospital D has set up a geriatric ward to provide 20 free beds since February 2013. The utilisation rate reached 95% in July 2013;</p> <p>Furthermore, Hospital D has taken measures to increase the utilisation of its low-charge beds, the monthly utilisation rate of which increased to 73% – 88% between April and July 2013.</p> <p>The DH will monitor the implementation of low-charge beds by Hospital F.</p> <p>Hospital D and Hospital F have submitted to the DH audited accounts and auditor's certificates for their compliance with financially-related land grant conditions. The DH and LandsD are following up with the hospitals on compliance with the requirements.</p> <p>The DH has also reminded private hospitals to make applications to LandsD for any business arrangement with third party for providing services in the hospitals. The LandsD would follow up on referrals and applications received and will take advice and seek policy support from FHB/DH in processing any such applications.</p>

Para. no.	Audit's/PAC's recommendations	Progress as at September 2013
	<p>(g) require Hospital C to rectify as early as possible, in consultation with the Social Welfare Department (SWD), the various irregularities found on LG4; and</p> <p>(i) take actions to clarify if similar situations as in Hospital E also exist in other private hospitals and take appropriate follow-up on the three issues of audit concern as mentioned in paragraph 3.38, including whether the provision of specialist medical centres (operated by third parties) within the hospital premises on PTG sites would constitute subletting and whether the hospital management is responsible for the hospital-related services provided by such medical centres.</p>	<p>The DH has reviewed the services currently provided on LG4 by Hospital C in consultation with the LandsD and considered that Hospital C has complied with the relevant land grant condition, which requires that all services provided on the lot are approved by the Director of Health.</p> <p>The amendment building plans submitted by Hospital C for the social centre for the elderly were agreeable to the SWD. The LandsD approved the building plans for the development on LG4 under the lease in May 2013. The LandsD will, in conjunction with the SWD, keep in view the completion of the works scheduled for the end of 2013.</p> <p>The DH has reminded private hospitals to make applications to the LandsD for any business arrangement with third party for providing services in the hospitals. The LandsD will follow up on referrals and applications received and will take advice and seek policy support from the FHB/DH in processing any such applications.</p>

Para. no.	Audit's/PAC's recommendations	Progress as at September 2013
Part 4: Sale of land for private hospital development		
Para. 5.11 of Audit Report	<p>Audit recommends that the Administration should draw lessons from the way the Government had disposed of the hospital site, including the subsequent change in use of a sizeable portion of the hospital site for private residential development. Specifically, the Administration should take actions to prevent recurrence, including:</p> <p>(a) the avoidance of providing a site area which turned out to be excessive for private hospital development; and</p> <p>(b) due consideration be given to any existing/potential shortfall in hospital beds and other planning needs when consenting to any change in use of a hospital site for private residential development.</p>	<p>For future disposal of private hospital sites, the Administration will take into account the demand and supply and service requirements of the private healthcare sector in order to determine the suitable size of private hospital sites, the scale of development as well as hospital-related lease requirements; and</p> <p>the Administration will not allow the purchasers of these private hospital sites in future to change the use of the sites throughout the term of the lease.</p>
Part 5: Way forward and Audit recommendations		
Para. 5.10 of Audit Report	<p>(j) Audit recommends that the Administration should periodically assess the effectiveness of the stepped-up enforcement measures taken on existing private hospitals on PTG sites to ensure compliance with land grant conditions, and make any necessary adjustments as required.</p>	<p>The Administration would review the effectiveness of the stepped-up enforcement measures taken on existing private hospitals on PTG sites where appropriate.</p>

Para. no.	Audit's/PAC's recommendations	Progress as at September 2013
Para. 5.12 of Audit Report	<p>Audit recommends that the Administration should:</p> <p>(a) take steps to ensure that the 2011 minimum requirements set for new private hospitals to be developed on new Government sites are properly included in the land leases and service deeds to be entered into by the Government with the successful tenderers; and</p> <p>(b) conduct a post-implementation review, at an opportune time in future, of the Government's new policy and arrangements for private hospital development.</p>	<p>In disposing the Wong Chuk Hang site for private hospital development, the Administration has imposed on the tenderer a set of minimum requirements covering land use, date of commencement of operation, bed number requirement, service scope, packaged charge and price transparency, service target, service standard, incident reporting and so forth. The requirements are included in the conditions of sale and the service deed.</p> <p>The DH will develop an enforcement protocol in consultation with the FHB and LandsD for monitoring compliance with the conditions of sale and the service deed.</p> <p>The Administration would review the policy and arrangements for private hospital development where appropriate.</p>

Provision of local services by the Marine Department

Updated progress in implementing Audit recommendations

Audit Report para. no.	Audit recommendations	Progress as at September 2013
Part 2: Management of Public Cargo Working Areas		
2.17	<p><i>Re-tendering of vacant berths</i></p> <p>The Director of Marine should:</p> <p>(b) review the tender terms with a view to minimising the risk of an operator surrendering his berth obtained at a high bid price and re-tendering for the surrendered berth at a lower bid price.</p>	<p>(b) The MD has reviewed the tender terms of PCWAs. For the next round of tender, the MD will include in the tender documents a restriction provision that prohibits an operator who has surrendered a berth from bidding the same berth again within a specified period.</p>
2.25	<p><i>Redeployment of posts</i></p> <p>The Director of Marine should:</p> <p>(a) take urgent action to delete the 15 vacant posts of the decommissioned Kwun Tong and Cha Kwo Ling PCWAs; and</p>	<p>(a) Out of the 15 vacant posts, 12 were deleted by end of September 2013. For the remaining three posts which have been temporarily redeployed, the MD will arrange for their permanent redeployment/deletion by November 2013 having regard to the manpower situation of the department.</p>

Audit Report para. no.	Audit recommendations	Progress as at September 2013
	(b) grant covering approval for the 12 temporarily redeployed posts and critically review whether there is genuine long-term need for these posts with a view to arranging for their deletion/permanent redeployment in accordance with the requirements of Financial Circular No. 4/94.	(b) The MD has arranged permanent redeployment of two of these 12 posts. For the remaining ten posts, the Director of Marine has granted covering approval for their temporary redeployment and will arrange for their permanent redeployment/deletion by November 2013 having regard to the long-term need for these posts.
2.36	<p><i>Automated vehicle entry/exit control system</i></p> <p>The Director of Marine should:</p> <p>(a) consider installing suitable automated vehicle entry/exit control systems for Western District and Chai Wan PCWAs with a view to improving the cost effectiveness and control of their operation; and</p> <p>(b) expedite action to replace the unserviceable vehicle entry/exit control systems for Tuen Mun and Rambler Channel PCWAs.</p>	<p>(a) and (b)</p> <p>The MD has reviewed the situation and will seek to install automated vehicle entry/exit control systems for Western District and Chai Wan PCWAs and replacement of the vehicle entry/exit control systems for Tuen Mun and Rambler Channel PCWAs. The MD has worked out the project proposals in consultation with the Electrical and Mechanical Services Department and scheduled to carry out the installation and replacement from May 2014 to February 2015 as far as practicable.</p>

Audit Report para. no.	Audit recommendations	Progress as at September 2013
Part 3: Surveying and licensing of vessels		
3.14	<p><i>Provision of plan examination and survey services</i></p> <p>The Director of Marine should conduct a review of the MD's survey work arrangements and requirements with a view to enhancing efficiency and effectiveness in performing its dual role as a survey service provider and a regulator.</p>	<p>The MD has completed a study which collates information on the conditions of the local vessels surveyed by the MD's ship inspectors and authorised surveyors. With the finding of the study as the basis, the MD has reviewed its survey work arrangements and requirements on how to enhance the efficiency and effectiveness of services to local vessels, including identifying and deploying resources to enhance the regulatory work in monitoring performance of authorised surveyors. The MD has developed technical guidance to assist ship surveyors and ship inspectors in conducting plan approval and ship inspection work. Enhancement of plan approval and survey work will continue as an on-going initiative.</p>
3.27	<p><i>Vessels without valid licences</i></p> <p>The Director of Marine should:</p> <p>(e) conduct a review with a view to formulating appropriate prosecution guidelines on belated licence renewal cases.</p>	<p>(e) The MD has reviewed the existing practice in respect of expired licences and is revising the relevant guidelines on handling belated licence renewal cases, including the procedures of follow-up action. The changes</p>

Audit Report para. no.	Audit recommendations	Progress as at September 2013
		will come into operation by the end of 2013 and the parties concerned will be duly informed.
Part 4: Management of private moorings		
4.14	<p data-bbox="308 674 692 707"><i>Control of private moorings</i></p> <p data-bbox="308 763 735 797">The Director of Marine should:</p> <p data-bbox="308 853 836 1182">(a) require owners concerned to remove private moorings not in use (such as those no longer used by their designated vessels as mentioned in paragraph 4.10) and vacate the spaces for the MD's re-allocation to applicants on the waiting lists;</p>	<p data-bbox="861 853 1402 1144">(a) The MD has stepped up patrol at designated mooring areas and is upgrading the computer system to further facilitate the patrol officers to conduct on-site inspection. The upgrading is scheduled for completion in April 2014.</p> <p data-bbox="919 1200 1402 1709">The MD has completed the exercise of updating the information of designated vessels in August 2013. The MD will continue to conduct on-site inspection and take follow-up action if a mooring is vacant or not used by the designated vessel. The MD will follow the established procedures to re-allocate any vacated spaces to applicants on the waiting list.</p>

Audit Report para. no.	Audit recommendations	Progress as at September 2013
	<p>(c) rationalise the administrative measure for regulating the transfer of private moorings and seek legal advice as appropriate;</p> <p>(d) conduct investigations to ascertain the extent of the problem of subletting private moorings and seek legal advice on the possible enforcement actions that can be taken against subletting cases so identified; and</p> <p>(e) based on the results in paragraph 4.14(c) and (d), consider the need to review relevant legal provisions with a view to strengthening the control over the transfer and use of private moorings.</p>	<p>(c), (d) and (e)</p> <p>The MD will continue to manage private moorings in accordance with the law. To address the concern on possible subletting private moorings, the MD is matching the information on owners of the private moorings with those on the designated vessels, and will devise appropriate follow-up action having regard to the size of the problem and legal advice. Where necessary, the legal provision will be reviewed.</p>

**Witnesses who appeared before the Committee
(in order of appearance)**

Mr TSANG Tak-sing	Secretary for Home Affairs
Mr Jonathan McKINLEY	Deputy Secretary for Home Affairs (2)
Mrs Yolanda TONG	Chief Leisure Service Manager (Recreation & Sport)
Mr Thomas CHOW	Permanent Secretary for Development (Planning and Lands)
Mr Thomas CHAN	Deputy Secretary for Development (Planning and Lands)
Ms Bernadette LINN	Director of Lands
Mr Alan LO	Chief Estate Surveyor (Headquarters)/ Assistant Director (Headquarters) (Acting) Lands Department
Professor Anthony CHEUNG	Secretary for Transport and Housing
Mr Duncan Warren PESCOD	Director of Housing
Ms Agnes WONG	Deputy Director (Strategy) Housing Department
Mr Albert LEE	Deputy Director (Estate Management) Housing Department
Mr Anson LAI	Assistant Director (Strategic Planning) Housing Department
Mrs Rosa HO	Assistant Director (Housing Subsidies) Housing Department
Mrs Kitty YAN	Assistant Director (Legal Service) Housing Department
Mr Tony LIU	Assistant Director (Estate Management) ³ Housing Department

Mr Michael LEE	Chief Housing Manager (Applications) Housing Department
Mr Paul CHAN Mo-po	Secretary for Development
Ms Trevina KUNG	Chief Estate Surveyor (Estate Management) Lands Department
Mr WONG Kam-sing	Secretary for the Environment
Ms Anissa WONG Sean-yee	Director of Environmental Protection
Mr David WONG Tak-wai	Assistant Director (Environmental Compliance Division)
Mr YAU Shing-mu	Acting Secretary for Transport and Housing
Ms Ivy LAW Chui-mei	Deputy Secretary for Transport and Housing (Transport) ³
Mrs Ingrid YEUNG HO Poi-yan	Commissioner for Transport
Mr David TO Kam-biu	Deputy Commissioner for Transport/Planning and Technical Services Transport Department
Mr LO Wai-chung	Acting Commissioner of Police
Mr PANG Shu-hung	Acting Chief Superintendent of Traffic Branch Headquarters Hong Kong Police Force

**Introductory Remarks by
Chairman of the Public Accounts Committee,
Hon Abraham SHEK Lai-him, GBS, JP,
at the First Public Hearing of the Committee
in respect of the Director of Audit's Report No. 61
on Saturday, 23 November 2013**

Good morning, ladies and gentlemen. Welcome to the Public Accounts Committee's public hearing relating to Report No. 61 of the Director of Audit on the results of value for money audits, which was tabled in the Legislative Council on 13 November 2013.

2. The Public Accounts Committee is a standing committee of the Legislative Council. It plays the role of a watchdog over public expenditure through consideration of the reports of the Director of Audit laid before the Council on the Government's accounts and the results of value for money audits of the Government and those organisations which receive funding from the Government. The consideration by the Committee of the Director's reports involves gathering evidence relevant to the facts contained in the Director's reports, so that the Committee may draw conclusions and make recommendations in a constructive spirit and forward-looking manner. I also wish to stress that the objective of the whole exercise is such that the lessons learned from past experience and our comments on the performance of the public officers or other personnel concerned will enable the Government to improve its control over the expenditure of public funds, with due regard to economy, efficiency and effectiveness.

3. The consideration of the Director's reports follows an established process of public hearings where necessary, internal deliberations and publication of the Committee's report. The Committee has an established procedure for ensuring that the parties concerned have a reasonable opportunity to be heard. After the Committee is satisfied that it has ascertained the relevant facts, it will proceed to form its views on those facts, followed by a process of formulating its conclusions and recommendations to be included in its report. In accordance with Rule 72 of the Rules of Procedure of the Legislative Council, the Committee is required to make its report on the Director's report to the Legislative Council within three months of the date at which the Director's report is laid on the Table of the Council. Before then, we will not, as a committee or individually, be making any public comments.

4. Following a preliminary study of Report No. 61, the Committee has decided, in respect of three chapters in the Report, to invite the relevant public officers to appear before the Committee and answer our questions. We have, apart from this hearing, also set aside 25 November and 2 December 2013 for public hearings on the other chapters.

5. The public hearing today is on Chapter 1 of Report No. 61 on the subject of "Direct land grants to private sports clubs at nil or nominal premium". The witnesses are: Mr TSANG Tak-sing (Secretary for Home Affairs), Mr Jonathan McKINLEY (Deputy Secretary for Home Affairs (2)), Mrs Yolanda TONG (Chief Leisure Service Manager (Recreation & Sport)), Mr Thomas CHAN (Deputy Secretary for Development (Planning and Lands)), Ms Bernadette LINN (Director of Lands) and Mr Alan LO (Chief Estate Surveyor (Headquarters) /Assistant Director (Headquarters) (Acting) of Lands Department).

6. I now invite members to ask questions.

Following is the English translation of the opening remarks by the Secretary for Home Affairs, Mr TSANG Tak-sing, at the public hearing of the LegCo Public Accounts Committee on the Director of Audit's Report No.61 today (November 23):

Mr Chairman,

People of our generation can surely recall Hong Kong's "1997 problem" which was initially an issue related to land leases. Hong Kong subsequently smoothly rejoined the Motherland, with the Basic Law ensuring that all principles and policies, including the leases of land in Hong Kong will remain unchanged for 50 years. There is a dedicated section in the Basic Law on land leases. For example, Article 120 states that "All leases of land granted, decided upon or renewed before the establishment of the Hong Kong Special Administrative Region which extend beyond 30 June 1997, and all rights in relation to such leases, shall continue to be recognized and protected under the law of the Region."

Accordingly, the newly established SAR Government decided in July 1997 that upon expiry Private Recreational Leases (PRLs) could be extended by 15 years and the decision received public support.

Fifteen years has passed and we need once again to consider the issue of PRL lease expiry. Before renewing the leases, we have conducted a detailed study taking various factors into consideration, including legal advice, public interest, the demand for and supply of sports facilities, the investments that private sports clubs have made over the years and the expectations of their members. We recognize the contribution of PRLs and have decided to renew the leases for another 15 years. In granting these renewals, we have also made it clear to the lessees that:

- (a) there should be no expectation that their leases would be further renewed upon expiry of the extended term on the same terms and conditions as contained in the leases as so extended; and
- (b) they should agree with the Home Affairs Bureau a scheme to open up their sports facilities to outside bodies and the agreed "opening-up scheme" will be part of the new lease conditions.

As always, before supporting the renewal of any specific land lease, we make sure that the land is not planned for any public purposes. In addition, there is a condition specified in the lease that the Government has the right to resume the concerned lot for a public purpose as long as the lessee has been given appropriate prior notice.

To date, we have renewed ten PRLs held by private sports clubs and 4 PRLs held by non-governmental organisations (NGOs). The ten private sports clubs include the South China Athletic Association, Kowloon Cricket Club, Kowloon Bowling Green Club, India Club Kowloon, Pakistan Association and Filipino Club, whilst the NGOs include Hong Kong Softball Association. Some of these clubs provide sports facilities which are not readily available at government venues and contribute to the development of different types of sport in Hong Kong.

Although the Government now provides more public sports facilities than it did in the past, there remains a strong demand for sports and recreational facilities in the community. By providing various facilities to over 140 000 members, private sports clubs have helped to relieve the pressure on the public sector. Some private sports clubs, after years of development, possess sports facilities suitable for hosting major international sports events, which helps to attract international competitions to Hong Kong.

We will continue to monitor the progress of the opening-up schemes, and follow up on cases with a relatively low degree of opening-up. For clubs which have not developed satisfactory opening-up schemes, we would not agree to renewal of their leases.

The issue of PRLs is one with a long history; some PRLs have been in existence for over a century. We understand the recent changes in public sentiment. The current Administration has been particularly concerned about land and housing supply since assuming office. It is against this background that we initiated a comprehensive policy review of PRLs in September this year. During the review, consideration will be given to different development objectives, the public interest on various fronts, long-term policy objectives for sports and recreation, other potential uses of and revenue from the concerned lots, facilities and supporting hardware of the private sports clubs, as well as the interests of the lessees, their members and staff. Apart from the Home Affairs

Bureau, other policy bureaux and departments such as the Development Bureau, Lands Department, Planning Department and Rating and Valuation Department are taking part in the review.

As highlighted in the Director of Audit's report, the Government has a long history of leasing land to private sports clubs to develop sports and recreational facilities for use by their members. The policy on PRLs involves the needs and demands of different stakeholders and will require in-depth deliberation in order to strike a proper balance between different objectives. Given the extensive scope and complicated nature of the review, we expect preliminary results to be available by the end of 2014.

I would like to thank the Audit Commission for its efforts and its report on this subject, and I agree with the various recommendations laid out in paragraphs 5.8 and 5.9 of the report. As for cases of suspected non-compliance with lease conditions mentioned in the report, we will follow up on a case-by-case basis.

This is my brief introduction to the issue; my colleagues and I will be pleased to answer Members' questions. Thank you Mr Chairman.

ENDS

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By fax (2840 0716)

Ms Mary So
Clerk
Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

9 January 2014

Dear Ms So,

Public Accounts Committee
Consideration of Chapter 1 of the Director of Audit's report No. 61
Direct land grants to private sports clubs at nil or nominal premium

Further to our partial reply of 18 December 2013, I am now authorised to provide our response to the remaining questions raised in your letter dated 28 November 2013 as follows:

- (d) Information to substantiate that the PRL policy serves the policy objectives for sports development, i.e. promoting sports in the community; promoting elite sports development; and promoting Hong Kong as a centre for international sports events**
- (e) Comparison between private sports clubs' sports facilities and those operated by the relevant government department(s) in meeting the policy objectives for sports development referred to in (d) above**

Private sports clubs operating on land granted under PRLs have made and continue to make a significant contribution to the policy objectives for sports development in Hong Kong, in particular through the provision of sports facilities. Examples of the ways in which the sports clubs contribute in this area, including comparisons with facilities provided by the Leisure and Cultural Services Department (LCSD) are elaborated below.

(i) **Promoting sport in the community:** As explained in our reply dated 18 December 2013 to your question (f), according to the parameters laid down in the Hong Kong Planning Standard and Guidelines (HKPSG), there is a shortage of public sports facilities in Hong Kong, which leads to significant demand for such facilities, particularly during the most popular times. At such times, many types of facility are fully booked and it is difficult for members of the public and sports associations to gain access to venues for practice, competition or casual play. Private sports clubs help significantly in meeting the demand for public sports venues by providing facilities to over 140 000 members, their families and friends. In addition, under the “opening up” schemes that we have approved so far, private sports clubs are also required to make their sports facilities available for advance booking by Outside Bodies, and so far the private sports clubs have committed to making a total of 9 800 facility hours per month available to non-members from Outside Bodies. Community organisations and schools which have recently benefited from using facilities at the private sports clubs include the St. James Settlement, Mother’s Choice, St. Mary’s Home for the Aged, the Po Leung Kuk, the Society for Community Organizations, Jordan Road Government Primary School and St. Paul’s Convent School.

(ii) **Promoting elite sports development:** Private sports clubs play a key role in providing venues for training and competition organised by “national sports associations” (NSAs). This is particularly important where certain types of sports facility are not commonly provided by LCSD - such as cricket, rugby, lawn bowls, golf and sailing facilities. Under the “opening up” scheme, private sports clubs are required to allow NSAs to make advance bookings during specified sessions. To date, private sports clubs have committed to allowing a total usage of 9 000 hours by NSAs, *in addition to* the hours allocated to Outside Bodies described above. NSAs which use private sports clubs’ facilities for regular training and competition include: the Hong Kong Cricket Association, the Hong Kong Equestrian Federation, the Hong Kong Football Association, the Hong

Kong Golf Association, the Hong Kong Hockey Association, the Hong Kong Lawn Bowls Association, the Hong Kong Rugby Football Union, Hong Kong Squash, the Hong Kong Sailing Federation, and the Hong Kong Tenpin Bowling Congress.

In addition, individual top-level athletes have benefited from training and competing at private sports clubs in furthering their athletic careers. In this connection, the new lease requirement to put in place schemes that will allow sportsmen and women under the age of 28 to join the clubs at greatly reduced entry and subscription fees will further encourage our young athletes with the potential to join the elite ranks to train and compete regularly at private sports clubs with the appropriate facilities.

(iii) Promoting Hong Kong as a centre for international sports events:

Several private sports clubs have sports facilities and the requisite back-up facilities (in terms of space for officials, media, corporate entertainment, and food and beverage facilities) suitable for hosting major international sports events, and have made these facilities available to NSAs wishing to attract international competitions to Hong Kong. The following “M” Mark major international sports events have been held at private sports clubs in recent years -

- Hong Kong Open Championship (Golf)
- Hong Kong Cricket Sixes
- Hong Kong International Soccer Sevens

In addition, international events in sports such as lawn bowls, squash, rugby (10s and 15s) and sailing have taken place at private sports clubs in recent years. These events, and the “M” Mark events are open to the public, often free of charge.

(g) Information to substantiate that the sports and recreational facilities operated by the private sports clubs helped to attract overseas executives and professionals to work in Hong Kong and maintain Hong Kong’s status as an international metropolis

The availability of sports and recreational facilities is an important factor in assessing the quality of life a city offers to its residents. Multi-national organisations and companies draw reference to reports published by international research agencies on issues related to quality of life when they consider sending employees overseas.

One such report is “The Quality of Living Survey” published by Mercer, which lists “sports and leisure” as one of the aspects assessed when categorising cities - those with “a good choice of sports clubs” attaining high ratings. In the 2012 Mercer report, Hong Kong ranked 70 amongst 221 major cities. Similarly, “The Global Liveability Ranking Report” produced by the Economist magazine’s Intelligence Unit (EIU) lists “sporting availability” as a “liveability” assessment criteria. EIU rates “sporting availability” according to the following aspects: availability of local sporting events; availability of international sporting events; and availability of sporting facilities. In latest 2013 EIU report, Hong Kong ranked 31 of 140 cities.

(h) Information on the number and percentage of overseas executives and professionals working in Hong Kong who are members of private sports clubs

There is no generally-accepted definition of “overseas executives and professionals” working in a place. In the case of Hong Kong, many foreign nationals who initially came to Hong Kong through visas or entry permits are now Permanent Residents of Hong Kong. Private sports clubs are unable to provide reliable information on the number and percentage of overseas executives and professionals working in Hong Kong who are members of the clubs. That said, we note that some private sports clubs provide categories of membership such as “term membership”, or “corporate membership”, that cater for the needs of overseas professionals and executives working in Hong Kong. The very fact that such memberships exist is a broad indicator of the demand for membership of private sports clubs by people who come to the city for shorter term professional assignments or career development.

(i) Statistics on the international sporting events held in the private sports clubs since 1997

Since the introduction in 2004 of the “M” Mark System to support the hosting of major international sports events in Hong Kong, two to three major sports events per year that receive funding or other forms of “M” Mark support have been regularly held at private sports clubs. “M” Mark events held in the past three years are listed out in part (iii) of the answer to questions (d) and (e) above.

As we have no record of non-“M” Mark supported international sporting events, we are unable at this stage to provide full statistics on all the international events that have been held at private sports clubs since 1997. As noted in part (iii) of the answer to questions (d) and (e) non- “M” Mark international events have been held in several sports clubs in recent years. We will continue to seek the relevant information from the clubs and aim to

provide a full list of these events as soon as we have the information available.

- (o) **Information on the usage of the sports facility by organizations which do not fall within the “Outside Bodies” referred to in paragraph 3.4 of the Director of Audit’s report (“Audit Report”)**

Based on the returns from lessees, for the first quarter of 2013 non-member users, including organisations that do *not* fall within the definition of “Outside Bodies” enjoyed over 11,000 hours of usage of lessees’ sports facilities. We will continue to monitor use of the sports’ clubs facilities by defined “Outside Bodies” and other non-member users and make the relevant information publicly available on the Home Affairs Bureau website.

- (u) **Government rent paid by each private sports club each year since 1997**

The relevant information is at the **Annex**.



(Miss Petty LAI)
for Secretary for Home Affairs

- c.c. Secretary for Development
Secretary for Financial Services and the Treasury
Director of Audit
Director of Lands

***Note by Clerk, PAC: Please see Appendix 13 of this Report for Annex of this letter.**

政府總部
民政事務局

香港添馬添美道二號
政府總部西翼十二樓



**GOVERNMENT SECRETARIAT
HOME AFFAIRS BUREAU**

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By fax (2840 0716)

Ms Mary So
Clerk
Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

18 December 2013

Dear Ms So,

Public Accounts Committee
Consideration of Chapter 1 of the Director of Audit's report No. 61
Direct land grants to private sports clubs at nil or nominal premium

In your letter of 28 November 2013 you asked for our response in writing to clarify 22 issues related to this subject. Further to our letter of 3 December, I am authorised to respond. Please note that we require more time to source information from the private sports clubs and to clarify with you the nature of the information required before we can provide a substantial reply to all of the questions that you have raised. This therefore serves as an interim reply to your letter.

Private recreational leases ("PRL") policy

- (a) **Criteria adopted by the Home Affairs Bureau ("HAB") when granting and renewing the allocation of land to private sports clubs under PRL at nil or nominal premium**

Under the current policy, the Lands department renews PRLs at nil or nominal premium on the basis of policy support given by HAB for a 15-year term. When considering whether or not to give policy support for the renewal of a PRL, HAB adopts the following basic criteria —

- (a) Whether or not the site is required for a public purpose;
 - (b) Whether or not there has been any significant breach of lease conditions; and
 - (c) Whether or not the lessee has a non-discriminatory membership policy.
- (b) Confirmation as to whether the results of the comprehensive review of the PRL policy, aimed for completion by end 2014, will not cover the renewal of the remaining 13 PRLs to private sports clubs that expired in 2011 and 2012, but will cover the renewal of the PRLs to private sports clubs as well as to uniformed groups, welfare organizations, national sports associations and civil servants' associations that will expire after 2014**

The comprehensive review of the PRL policy will *not* cover the renewal of the remaining 13 PRLs that expired in 2011 and 2012, but may impact on the renewal of PRLs that expire after 2014.

- (c) Names of the policy bureau/departments participating in the comprehensive review of the PRL policy referred to in (b) above, and the issues that would be covered/addressed in the review**

The Home Affairs Bureau will lead the review referred to in (b) above and the Development Bureau and the Lands, Planning and Rating and Valuation Departments will also take part in the review. Issues to be considered will include: long-term policy objectives for sport; other potential uses for the concerned lots; financial considerations; the interests of the lessees, their members and staff; and the wider public interest.

- (d) Information to substantiate that the PRL policy serves the policy objectives for sports development, i.e. promoting sports in the community; promoting elite sports development; and promoting Hong Kong as a centre for international sports events**

We need to source updated information from the sports clubs concerned before we can give a fully substantiated reply on this issue. We will provide the requested information as soon as we have the information available.

- (e) **Comparison between private sports clubs' sports facilities and those operated by the relevant government department(s) in meeting the policy objectives for sports development referred to in (d) above**

We need to source updated information from the sports clubs concerned before we can give a fully substantiated reply on this issue. We will provide the requested information as soon as we have the information available.

- (f) **Information to substantiate that the sports and recreational facilities operated by the private sports clubs helped to significantly relieve the pressure on public facilities**

A comparison of sports facilities provided by private sports clubs with public sports facilities operated by the Leisure and Cultural Services Department (LCSD) is shown in the following table.

Sports facilities	Number of facilities provided by private sports clubs	Number of facilities operated by LCSD	Shortage of facilities according to the Hong Kong Planning Standards and Guidelines
Tennis court	97	256	255
Billiard table	17	22	No standard
Bowling alley	78	0	No standard
Squash court	40	295	No standard
Badminton court	61	597	361
Basketball court	32	492	274
Artificial / natural turf pitch	11	311	294
Fitness centre	13	71	No standard
Golf course	6	0	No standard
Hockey pitch	1	2	No standard
Shooting range	5	1	No standard

There is a strong public demand for sports and recreational facilities. By providing sports facilities for over 140 000 members, their families and friends, private sports clubs help to relieve the pressure on public facilities.

Under the new PRL lease conditions, the clubs are required to “open up” their sports facilities to eligible outside bodies, including: schools registered under

the Education Ordinance; non-governmental organisations receiving subvention from the Social Welfare Department; uniformed groups and youth organisations receiving subvention from HAB; and “national sports associations” (NSAs) recognised by the Sports Federation & Olympic Committee of Hong Kong, China and their affiliate member organisations.

- (g) Information to substantiate that the sports and recreational facilities operated by the private sports clubs helped to attract overseas executives and professionals to work in Hong Kong and maintain Hong Kong’s status as an international metropolis**

In response to our enquiry on 3 December as to the precise nature of the information required, you orally advised that the question was raised on the basis of the relevant reference in the Director of Audit’s report. We will provide the requested information as soon as this is available.

- (h) Information on the number and percentage of overseas executives and professionals working in Hong Kong who are members of private sports clubs**

See response to (g) above.

- (i) Statistics on the international sporting events held in the private sports clubs since 1997**

We need to source updated information from the sports clubs concerned before we can give a fully substantiated reply on this issue. We will provide the requested information as soon as we have the information available.

“Opening up” schemes

- (j) Information required to be provided by private sports clubs in their quarterly reports to the HAB as well as that required to be provided by the competent authorities**

We require private sports clubs and competent authorities to provide the information set out at **Annex 1** on a quarterly basis.

- (k) Timing on issuing detailed guidelines to help private sports clubs report the “opening up” scheme usage in their quarterly reports submitted to the HAB**

We issued initial guidelines on reporting on “opening up” schemes to private sports clubs in October 2012. We have since received feedback from private sports clubs and we plan to issue revised guidelines by mid-2014.

- (l) Timing on putting in place a mechanism for the HAB to verify the usage reported**

We have started verifying the reported usage. The first renewal of a PRL by a private sports club took effect from March 2013, and we are gathering experience in recording the reported usage. We aim to put in place a systematic approach to verifying reported usage by mid-2014.

- (m) Penalty, if any, should a private sports club fail to submit quarterly reports on the usage of its sports facilities under the approved “opening up” scheme or provide inaccurate information in the quarterly report**

If a lessee fails to submit quarterly reports in an accurate and timely manner, we shall in the first instance issue a warning letter. In cases of repeated or intentional failure to comply with the reporting requirement, we will consider the case for enforcement action under the lease conditions. We will consider in more detail the issues of penalties for breaching lease conditions in the context of the comprehensive PRL policy review.

- (n) The number of advertisements placed in the print media to publicize the availability of sports facilities on premises operated under the PRLs; the names of the print media and the dates on which such advertisements were placed; the size of the advertisements; the page of the print media on which each of these advertisements was placed; and samples of these advertisements**

Details of the advertisements are at **Annex 2**.

- (o) Information on the usage of the sports facility by organisations which do not fall within the “Outside Bodies” referred to in paragraph 3.4 of the Director of Audit’s report (“Audit Report”)**

We require more time to gather and process information on this issue. We will provide a substantial reply on this point as soon as possible.

(p) Background of the monthly “Opening-up” facility-hours committed by clubs and their reported usages (Table 2 of the Audit report refers);

Table 2 of the Audit report refers to information available to HAB as at March 2013. The first PRL renewal for a private sports club took effect in March 2013 therefore no club was obliged by the lease to implement the new “opening up” scheme, publicise such a scheme or file quarterly reports before that time. The information in Table 2 is extracted from returns provided between October 2012 and March 2013 on a voluntary basis.

Compliance with lease conditions

(q) Reasons why the submission of quarterly report on facility usage by private sports clubs could ensure compliance with the current greater access requirement

The quarterly reports contain information on sports facilities provided by the lessees, overall usage of such facilities, usage of such facilities by Outside Bodies, and the number of cases where booking requests by Outside Bodies are rejected. By analysing the returns, HAB can identify cases of low utilisation and follow up with lessees accordingly to strengthen publicity and reach out more effectively to schools and welfare and organisations.

(r) Additional conditions under the renewed PRL

The Director of Lands has provided the relevant information in the Annex to her letter of 9 December 2013.

(s) Plan on conducting more regular/rigorous on-site inspection to private sports clubs to ensure compliance with lease conditions

As a policy bureau, HAB is not equipped to conduct regular inspections to identify unauthorised building works or verify compliance with works orders issued by other authorities. We work with Lands and other government departments to ensure that PRL sites are used in accordance with lease conditions.

We will however closely monitor the usage of sports facilities on PRL sites, in particular with regard to the requirement to give greater access to Outside Bodies in accordance with the approved new opening up schemes. Using the quarterly returns as a key monitoring tool, we shall follow up with lessees in cases of low utilisation and we will conduct random checks on the accuracy of the quarterly reports as appropriate.

Way forward

(t) Timetable for taking forward the audit recommendations set out in paragraphs 5.8 and 5.9 of the Audit Report

Our current timetable for taking forward the recommendations of the report is at **Annex 3**.


Others

(u) Government rent paid by each private sports club each year since 1997

The Rating and Valuation Department is now compiling the requested information. We will provide the requested information as soon as we have the information available.

(v) Estimated cost of the Government taking over the sports and recreational facilities operated by the private sports clubs on PRL sites

The private sports clubs' facilities have been built and operated in a manner different from publicly built and funded facilities. Furthermore, many clubs contain types of facility that are not currently operated by the LCSD. For these reasons, it is not currently possible for us to provide a robust estimate of the cost of taking over the operation of such facilities. We plan to address this issue in the course of the comprehensive policy review.



(Miss Petty LAI)
for Secretary for Home Affairs

c.c. Secretary for Development
Director of Lands

****Note by Clerk, PAC: Please see Appendices 15 and 16 of this Report for Annexes 2 and 3 of this letter.***

Information to be provided by Private Sports Clubs and Competent Authorities in Quarterly Returns

Information to be provided by private sports clubs in quarterly returns is as follows -

- use of facilities by eligible outside bodies, members of lessees and organisations other than eligible outside bodies;
- nature and details of use, e.g., date of use, name of user, nature of use and fee charged or waived; and
- information on cases where applications from outside bodies to use the facilities have been rejected and relevant details.

Information to be provided by Competent Authorities in quarterly returns is as follows -

- use of facilities by eligible outside bodies;
- nature and details of use, e.g., date of use and name of user; and
- information on results of applications.

Annual Government Rent Payable by Organisations holding Private Recreational Leases since 1997

S/N	Name of Holder	Location and Lot No.	1997/98 Government Rent Payable (\$)	1998/99 Government Rent Payable (\$)	1999/2000 Government Rent Payable (\$)	2000/01 Government Rent Payable (\$)	2001/02 Government Rent Payable (\$)	2002/03 Government Rent Payable (\$)	2003/04 Government Rent Payable (\$)	2004/05 Government Rent Payable (\$)	2005/06 Government Rent Payable (\$)	2006/07 Government Rent Payable (\$)	2007/08 Government Rent Payable (\$)	2008/09 Government Rent Payable (\$)	2009/2010 Government Rent Payable (\$)	2010/11 Government Rent Payable (\$)	2011/12 Government Rent Payable (\$)	2012/13 Government Rent Payable (\$)
1	Aberdeen Boat Club Limited	AIL 454, Shum Wan Road, Brick Hill	62,370.00	83,160.00	88,200.00	86,400.00	86,400.00	82,800.00	79,200.00	76,320.00	81,720.00	87,840.00	91,440.00	101,520.00	101,520.00	101,520.00	103,320.00	120,600.00
2	Chinese Recreation Club, Hong Kong	IL 8875, No. 123 Tung Lo Wan Road	610,200.00	813,600.00	657,220.00	614,160.00	617,840.00	571,680.00	546,840.00	525,600.00	561,600.00	604,800.00	630,000.00	698,400.00	698,400.00	698,400.00	708,480.00	784,800.00
3	Clearwater Bay Golf & Country Club	Lot 227 DD 241, Po To O	505,050.00	666,000.00	695,520.00	676,800.00	763,200.00	727,200.00	738,000.00	716,400.00	766,800.00	838,800.00	882,000.00	979,200.00	957,600.00	957,600.00	1,069,200.00	1,184,400.00
4	Club De Recreio	KIL 11098, No. 20 Gascoigne Road	162,600.00	136,800.00	124,200.00	117,360.00	113,400.00	105,840.00	95,040.00	93,600.00	99,360.00	108,000.00	108,000.00	118,800.00	111,600.00	118,800.00	141,840.00	154,800.00
5	Craigengower Cricket Club	IL 8881, No. 188 Wong Nai Chung Road	221,400.00	295,200.00	256,680.00	229,680.00	226,080.00	212,400.00	246,038.71	349,200.00	374,400.00	419,153.23	469,800.00	523,800.00	523,800.00	523,800.00	523,800.00	586,800.00
6	Filipino Club	KIL 11096, No. 10 Wylie Road	41,310.00	55,080.00	44,640.00	39,960.00	39,960.00	37,440.00	34,200.00	33,120.00	35,460.00	38,520.00	39,600.00	43,920.00	42,480.00	42,480.00	46,440.00	51,480.00
7	Hebe Haven Yacht Club Limited	Lot 138 and Extension DD 217, Pak Sha Wan	25,662.00	33,840.00	32,040.00	30,600.00	32,040.00	30,960.00	32,910.00	70,691.00	91,080.00	97,200.00	99,360.00	114,480.00	114,480.00	109,800.00	109,800.00	117,000.00
8	Hong Kong Country Club	RBL 1129, Wong Chuk Hang Road	186,300.00	248,400.00	261,800.00	266,400.00	273,600.00	261,000.00	249,840.00	241,920.00	258,480.00	279,360.00	287,640.00	314,800.00	299,160.00	311,400.00	349,200.00	381,600.00
9	Hong Kong Cricket Club	IL 9019, No. 137 Wong Nai Chung Gap Road	199,260.00	265,680.00	297,720.00	302,760.00	295,920.00	277,560.00	253,800.00	246,240.00	264,600.00	287,640.00	293,040.00	330,480.00	370,280.00	430,920.00	435,960.00	471,600.00
10	Hong Kong Football Club	IL 8846, No. 3 Sports Road, Happy Valley	513,000.00	684,000.00	703,440.00	686,520.00	740,160.00	691,200.00	659,520.00	637,200.00	684,000.00	738,000.00	770,400.00	856,800.00	882,000.00	855,720.00	886,680.00	1,008,000.00
11	Hong Kong Golf Club	RBL 1117, Deep Water Bay	237,600.00	316,800.00	268,920.00	255,960.00	261,000.00	257,040.00	260,280.00	252,000.00	270,000.00	291,600.00	306,000.00	338,400.00	324,000.00	324,000.00	360,720.00	399,600.00
12	Hong Kong Golf Club	Lot 942 RP in DD 94, Sheung Shui	The lot was held by the Club in form of lease/tenancy other than PRL before 1999.			673,650.00	1,108,800.00	1,143,000.00	1,101,600.00	1,161,000.00	1,134,000.00	1,222,933.55	1,380,600.00	1,450,440.00	1,614,960.00	1,614,960.00	1,759,320.00	1,962,800.00
13	Hong Kong Gun Club	TWL 399, Chuen Lung, Tsuen Wan	25,650.00	34,200.00	31,050.00	31,050.00	31,050.00	31,050.00	31,050.00	30,960.00	30,960.00	33,480.00	35,280.00	35,280.00	33,480.00	35,280.00	37,080.00	38,160.00
14	Hong Kong Jockey Club	IL 8847, No. 1 Sports Road and Wong Nai Chung Road	10,701,720.00	14,268,960.00	8,352,000.00	7,803,000.00	9,198,000.00	7,250,640.00	5,343,120.00	6,473,520.00	6,038,280.00	5,114,160.00	3,706,560.00	6,634,080.00	5,884,920.00	6,203,520.00	6,981,840.00	7,761,600.00
15	Hong Kong Jockey Club	STTL 13, Sha Tin (including Sha Tin Racecourse Clubhouse)	19,031,184.90	25,096,068.00	17,303,832.00	15,761,052.00	16,748,892.00	13,688,190.00	10,821,204.00	12,459,330.00	11,864,880.00	10,671,768.00	8,705,136.00	13,846,788.00	12,579,368.40	12,921,876.00	14,202,798.20	15,581,266.20
16	Hong Kong Model Engineering Club Limited	Lot 2416 in DD 118, Tai Tong, Yuen Long	Not applicable as the lease was granted in 2003.							2,572.50	8,153.50	8,280.00	8,280.00	8,280.00	7,866.00	8,244.00	8,622.00	9,000.00
17	India Club, Kowloon	KIL 11095, No. 24 Gascoigne Road	51,300.00	68,400.00	54,000.00	49,680.00	48,240.00	45,720.00	41,760.00	40,680.00	43,200.00	46,080.00	47,520.00	52,200.00	50,760.00	50,760.00	58,320.00	64,080.00
18	Indian Recreation Club	IL 8900, No. 63 Caroline Hill Road, So Kon Po	85,050.00	113,400.00	106,560.00	90,720.00	87,840.00	81,360.00	75,240.00	73,440.00	78,120.00	84,600.00	86,040.00	94,680.00	88,560.00	91,440.00	108,800.00	117,000.00
19	Jardine's Lookout Residents' Association	IL 8895, No. 2 Creasy Road, Jardine's Lookout	83,700.00	111,600.00	83,880.00	72,000.00	70,560.00	65,880.00	59,400.00	57,600.00	61,200.00	64,800.00	68,400.00	72,000.00	68,400.00	68,400.00	90,720.00	99,000.00
20	Kowloon Bowling Green Club	KIL 11065, No. 123 Austin Road	76,680.00	102,240.00	92,520.00	79,560.00	78,120.00	72,720.00	65,880.00	64,440.00	68,940.00	75,240.00	76,680.00	84,600.00	80,280.00	80,280.00	94,680.00	102,600.00
21	Kowloon Cricket Club	KIL 11052, No. 10 Cox's Road	221,400.00	295,200.00	277,560.00	245,880.00	244,140.00	262,080.00	250,200.00	241,920.00	258,120.00	279,360.00	286,920.00	316,800.00	309,600.00	309,600.00	339,840.00	374,400.00
22	Kowloon Tong Club	NKIL 5989, Waterloo Road, Kowloon Tong	121,500.00	162,000.00	146,160.00	131,760.00	138,600.00	129,600.00	118,800.00	118,800.00	126,000.00	136,800.00	140,400.00	154,800.00	151,200.00	151,200.00	163,800.00	180,000.00
23	Kowloon Tsai Home Owners Association	NKIL 5961, No. 10A Cambridge Road, Kowloon Tong	81,000.00	108,000.00	93,600.00	83,880.00	82,800.00	77,400.00	71,280.00	68,760.00	73,440.00	79,560.00	82,080.00	90,720.00	85,680.00	85,680.00	92,520.00	100,800.00
24	Pakistan Association of Hong Kong Limited	KIL 11094, No. 150 Princess Margaret Road	27,000.00	36,000.00	28,440.00	25,560.00	25,200.00	23,760.00	21,960.00	21,240.00	22,680.00	24,120.00	24,840.00	27,360.00	26,640.00	26,640.00	29,160.00	31,680.00
25	The Post Office and Cable & Wireless Recreation Club Limited	IL 8597 RP, No. 108 Caroline Hill Road, So Kon Po	61.20	61.20	61.20	61.20	61.20	61.20	61.20	61.20	61.20	61.20	61.20	61.20	61.20	61.20	61.20	61.20
26	Royal Hong Kong Yacht Club	ML 709, Ketteret Island	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
27	Royal Hong Kong Yacht Club	RBL 1181, Middle Island	729.00	972.00	1,080.00	1,116.00	1,044.00	1,008.00	936.00	900.00	963.00	15,798.50	18,900.00	20,160.00	20,160.00	20,160.00	23,040.00	25,560.00
28	Royal Hong Kong Yacht Club	Lot 341 and Extension DD 212, Che Keng Tuk	15,120.00	20,160.00	20,880.00	21,600.00	21,240.00	20,520.00	18,720.00	19,108.55	25,128.00	61,920.00	63,720.00	73,440.00	73,440.00	71,280.00	71,280.00	75,960.00
29	South China Athletic Association	IL 8850, No. 88 Caroline Hill Road, So Kon Po	771,930.00	1,029,240.00	1,141,200.00	1,141,200.00	1,188,000.00	1,141,200.00	1,087,200.00	1,044,000.00	1,116,000.00	1,202,400.00	1,256,400.00	1,386,000.00	1,386,000.00	1,386,000.00	1,401,840.00	1,551,600.00
30	South China Athletic Association	IL 11071, No. 6 Wylie Road	27,540.00	32,760.00	31,680.00	25,920.00	25,920.00	52,186.45	52,560.00	50,760.00	54,360.00	58,680.00	61,200.00	68,760.00	67,320.00	67,320.00	71,640.00	77,760.00
31	Victoria Recreation Club	Lot 316 DD 252, Sai Kung	18,018.00	23,760.00	19,800.00	17,640.00	16,920.00	16,560.00	15,120.00	14,760.00	15,660.00	16,560.00	16,920.00	18,720.00	17,640.00	17,640.00	20,520.00	22,680.00
32	Yau Yat Chuen Garden City Club Limited	NKIL 6042, 7 Cassia Road, Yau Yat Chuen	288,900.00	306,000.00	289,080.00	273,240.00	289,440.00	276,480.00	255,240.00	246,240.00	263,880.00	284,400.00	297,360.00	329,400.00	329,400.00	319,680.00	331,560.00	370,800.00

電話 Tel: 2231 3802
圖文傳真 Fax: 2116 0764
電郵地址 Email: ceshq@landsd.gov.hk
本署檔號 Our Ref.: (24) in LDC 2/1309/13 Pt 6
來函檔號 Your Ref. CB(4)/PAC/R61

覆函請註明本署檔號

Please quote our reference in response to this letter.



地政總署
LANDS DEPARTMENT

我們矢志努力不懈，提供盡善盡美的土地行政服務。
We strive to achieve excellence in land administration.

香港北角透慈道三三三號北角政府合署二十樓

20/F., NORTH POINT GOVERNMENT OFFICES
333 JAVA ROAD, NORTH POINT, HONG KONG

9 December 2013

Public Accounts Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Ms. Mary SO)

Dear Ms SO,

I refer to your letter of 28 November and would respond according to the same paragraphing of your letter:

- (a) Article 121 of the Basic Law seeks to implement paragraphs 2 and 3 of Annex III to the Sino-British Joint Declaration (JD) concerning the grant and renewal of leases during the period from 27 May 1985 (i.e. the date on which the JD came into force) to 30 June 1997. In respect of leases granted or renewed by the Hong Kong Government during such period and which extend beyond 30 June 1997, the relevant JD provisions restricted the imposition of additional premium as from 1 July 1997 in order to address the lessees' concern that substantial additional premium might be imposed by the HKSAR Government after that date. Such a restriction does not apply to the grant or renewal of leases (including Private Recreational Leases (PRLs)) by the HKSAR Government after 30 June 1997.
- (b) The policy of PRLs had remained unchanged since 1979 until 2011, following the review started by Home Affairs Bureau in 2010. There had been no change in the general lease conditions during such period. After the review, in renewing PRL leases, the provision of greater access to "Outside Bodies" (which include, among others, schools, certain subvented non-government organisations and national sports associations) is amended. According to the new lease extension conditions, the lessees are required to submit for the Secretary for Home Affairs' approval of their "opening-up" schemes and to submit quarterly reports on usage under the approved schemes. Besides, a new condition is added (where the condition is not in the existing lease) that the lessees shall not alter or add to its Memorandum and Articles of Associations without first having obtained the consent in writing of the Director of Lands. Some obsolete lease conditions have also been removed.

A list of changes in general clauses in PRLs introduced for application across-the-board after the review in 2011 is attached at Annex (excluding those relating to technical updating of clauses).

- (c) Based on the information provided by the concerned government departments, the club as referred to in paragraph 9 in Example 12 has been requested to provide explanation of their arrangement with the departments concerned. Lands D will follow up when a reply is received from the club.

As for the installation of radio base stations as referred to in paragraph 4 of Example 13, upon this department's request, the club has recently provided relevant information including details of the club's licence agreement with each of the operators. Based on the information provided, the Lands D considers that the grantee concerned has breached the lease condition on restriction on alienation. A letter has been issued to the club demanding the club either to remove the radio base stations or to submit a waiver application, if approved, will be subject to waiver fees to be imposed by Lands D.

Yours sincerely,



(Alan KL Lo)
for Director of Lands

Annex

c.c. Secretary for Home Affairs (fax no. 2537 6319)
Secretary for Development (fax no. 2151 5303)
Secretary for Financial Services and the Treasury (fax no. 2147 5239)
Director of Audit (fax no. 2583 9063)

Conditions included in Lease Extension Documents

(A) New Conditions included in Lease Extension Documents

Clauses Relating to "Opening Up" Requirements

Permit Outside
Bodies to use the lot

() (a) Notwithstanding anything contained herein to the contrary, the Grantee shall permit the Outside Bodies (as specified in sub-clause (c) of this Special Condition) to use such part of the lot, the building and the structure thereon together with the facilities thereof as required for conducting sports-related activities for an aggregate of not less than 50 hours per calendar month.

(b) The Grantee shall submit to the Secretary for Home Affairs for approval a scheme with such details as required by the Secretary for Home Affairs on implementation of the obligation imposed in sub-clause (a) of this Special Condition prior to the commencement of the term hereby created. The Grantee shall, at his own expense, implement the scheme as approved by the Secretary for Home Affairs from time to time on the implementation of the obligation imposed in sub-clause (a) of this Special Condition (hereinafter referred to as the "approved scheme") in all respects to the satisfaction of the Secretary for Home Affairs and the Grantee shall not make any variation or substitution of the approved scheme without the prior written consent of the Secretary for Home Affairs provided that the Secretary for Home Affairs shall have the right to vary the approved scheme by serving the Grantee not less than three calendar months' prior written notice to that effect.

(c) For the purpose of these Conditions, Outside Bodies shall be as follows:

- (i) any school as defined in s. 3(1) of the Education Ordinance (Cap. 279); any regulations made thereunder and any amending legislation;
- (ii) any non-governmental organization that are receiving recurrent subvention from the Social Welfare Department;
- (iii) any national sports association that is affiliated to its respective International Federations and is a member of the Sports Federation & Olympic Committee of Hong Kong, China;
- (iv) any uniformed group and youth organisation that are receiving recurrent subvention from the Home Affairs Bureau; and
- (v) any Government department.

Permit NSA to use
the lot

() (a) Notwithstanding anything contained herein to the contrary, the Grantee shall:

- (i) permit the squads and representative players recommended by the national sports association (as defined in sub-clause (c) of this Special Condition) to use such part of the lot, the

building and the structure thereon together with the facilities thereof for training or the playing of local league and related competitions sanctioned by the national sports association for an aggregate of not less than 10 hours per calendar month; and

- (ii) permit the national sports association to use such part of the lot, the building and the structure thereon together with the facilities thereof for hosting major international sporting events sanctioned by its International Federations. For the purpose of this Special Condition, the decision of the Secretary for Home Affairs on what constitutes a major international sporting function shall be final and binding on the Grantee.

(b) The Grantee shall submit to the Secretary for Home Affairs for approval a scheme with such details as required by the Secretary for Home Affairs on implementation of the obligation imposed in sub-clause (a) of this Special Condition prior to the commencement of the term hereby created. The Grantee shall, at his own expense, implement the scheme as approved by the Secretary for Home Affairs on the implementation of the obligation imposed in sub-clause (a) of this Special Condition (hereinafter referred to as the "approved NSA scheme") in all respects to the satisfaction of the Secretary for Home Affairs and the Grantee shall not make any variation or substitution of the approved NSA scheme without the prior written consent of the Secretary for Home Affairs provided that the Secretary for Home Affairs shall have the right to vary the approved NSA plan by serving the Grantee not less than [three calendar months' prior written notice] to that effect.

(c) For the purpose of these Conditions, national sports association means any sports association that is affiliated to its respective International Federation and is a member of the Sports Federation & Olympic Committee of Hong Kong, China.

Submission of
quarterly statement

() The Grantee shall submit to the Secretary for Home Affairs a quarterly statement on the dates as specified by the Secretary for Home Affairs containing such details as the Secretary for Home Affairs shall require to prove to the satisfaction of the Secretary for Home Affairs that the approved scheme and the approved NSA scheme have been implemented in all aspects.

Publication of
information

() The Grantee shall publish on its website information about the facilities on the lot to the satisfaction of the Secretary for Home Affairs .

Clause Relating to Approval Prior to Alteration of Memorandum and Articles of Association

Memorandum and
Articles of
Association

() Notwithstanding anything contained in the Companies Ordinance, any regulations made thereunder and any amending legislation permitting alteration of or addition to Memorandum and Articles of Association the Grantee shall not alter or add to its Memorandum and Articles of Association in force at the date of this Agreement without first having obtained the consent in writing of the Director.

(B) Conditions deleted in Lease Extension Documents

Clause relating to "The lot to be used by other organization as requisitioned by competent authority"

The lot to be used by other organisation as requisitioned by competent authority

() (a) Subject to sub-clause (b) of this Special Condition, the Grantee shall when required so to do by the competent authority permit the lot or any part thereof to be used :

- (i) for sports meetings or other similar activities of schools, youth organisations, welfare organisations; or
- (ii) for sports, physical education exercises or displays of the Armed and Auxiliary Services, Government Departments; or
- (iii) by sports teams visiting Hong Kong or participating in open sports events.

(b) The permitted uses of the lot or any part thereof specified in sub-clause (a) of this Special Condition shall not include the use of any building or structure (including, for example, swimming pools) erected thereon save and except any changing room or toilet facilities (but not any toiletry items provided therein), and shall not unduly interfere with the reasonable use of the lot or any part thereof or the facilities thereof by the Grantee, its members, their guests and sports teams for the purpose for which it is granted under these Conditions.

(c) The competent authority shall not exercise his rights hereunder unless and until he shall have given to the Grantee not less than six weeks' notice in writing and satisfied himself that such use shall not be on a weekend or public holiday, shall not exceed a maximum of 3 sessions of 3 hours each per week including all other applications by any competent authority, and shall not interfere with the proper care and maintenance of the lot or with the Grantee's own proper use thereof. Any such notice served by the competent authority shall be addressed to the Grantee at his registered office and shall specify the name of the school, youth organisation or welfare or other organization as defined in sub-clause (a) of this Special Condition, part of the lot required and the precise purpose for which, the date upon which, and the approximate number of persons for whom the lot or any part thereof is required.

Competent Authority

(d) For the purpose of this Special Condition, the competent authority shall be as follows :

- (i) The Director of Education, in respect of schools or activities organised by or under the auspices of the Education Department;
- (ii) The Director of Social Welfare in respect of welfare organisations;
- (iii) The Director of Leisure and Cultural Services in respect of groups of activities organised by or under the auspices of the Leisure and Cultural Services Department;
- (iv) The Secretary for the Civil Service in respect of Government Departments or activities organised by or under the auspices of a Government Department

- or Departments; and
- (v) The Secretary for Home Affairs in respect of all other matters referred to in sub-clause (a) of this Special Condition.

Clause relating to "Conditions for the requisition of the lot"

Conditions for the requisition of the lot

- () Upon any requisition of the lot or any part thereof by the competent authority under Special Condition (13) hereof it shall be lawful for the Grantee to provide as a condition of such requisition that :
- (a) any damage to the lot or any part thereof or any building or structure thereon (including a swimming pool) occurring during the occupation of the lot or any part thereof by the body for whom it was requisitioned shall be made good and repaired by the Grantee at the expense of such body which shall pay for the same upon the production by the Grantee of a certificate of costs from the contractors who carried out such repairs;
- (b) any increase in insurance premium which may become payable as a result of such requisition or as a result of the occupation of the lot or any part thereof by the body for whom it was requisitioned shall be paid by such body;
- (c) the body for whom the lot or any part thereof is requisitioned shall at its own expense insure with an insurance company approved by the Grantee against death, injury, loss or damage from whatever cause arising from the use of the lot by such body and shall prior to using the lot lodge the insurance policy together with the receipt for the premium with the Grantee, and if such body shall fail to lodge with the Grantee the insurance policy and the receipt for the premium in manner aforesaid it shall be lawful for the Grantee to refuse the use of the lot, or any part thereof by such body; and
- (d) any miscellaneous charges including the cost of electricity, gas, water, electrical equipment, microphones and marking of grounds incurred as a result of the occupation of the lot or any part thereof by the body for whom it was requisitioned shall be paid by such body.

(C) Conditions amended in Lease Extension Documents

Amended clause relating to Liability for damage or loss resulting from requisition of the lot

Liability for damage or loss resulting from requisition of the lot

() The Government shall not be liable for any damage or loss sustained by the Grantee by reason of the use of the lot, the building and the structure thereon together with the facilities thereof or any part thereof by any Outside Bodies or national sports association .

Original clause

Liability for damage or loss resulting from requisition of the lot

() The Government shall not be liable for any damage or loss sustained by the Grantee by reason of any requisition of the lot or any part thereof by the competent authority or by reason of the occupation of the lot or any part thereof by the body for whom it was requisitioned under Special Condition () hereof unless the body so occupying the lot is a Government Department.

**Details of Advertisements to Publicise the Availability of PRL
Facilities for the Use of Outside Bodies**

Date of Advertisement	Name of Print Media	Size of Advertisement
2012		
25 July	Headline Daily	Half page at p.48
26 July	The Standard	Half page at p.9
26 July	Metropop	Half page at p.18
27 July	Metro Daily	Half page at p.20
2013		
14 May	Headline Daily	Half page at p.22
14 May	Apple Daily	Half page at p.C13
14 May	The Standard	Half page at p.7
16 May	Metropop	Half page at p.16 of “This Week What’s Up” section

**Timetable for the Home Affairs Bureau to Take Forward
the Audit Recommendations**

Paragraph	Recommendations	Timetable for taking forward the recommendations/ other responses
5.8(a)	work out a timetable for the policy review, so that new policy directions on Private Recreational Leases (PRLs) would be in place before the expiration of a number of PRLs (see paras. 2.30 and 5.6)	A comprehensive policy review is now underway. Preliminary findings are expected by the end of 2014.
5.8(b)	take into account the needs and demands of different stakeholders (namely, the interests of the private sports clubs on PRLs and their members, and the wider public interest) and strike a proper balance between different objectives (see paras. 3.32 and 5.5 to 5.7)	
5.8(c)	set out key principles to be adopted for the renewal of existing PRLs and the granting of new PRLs in future, with a view that public interest will be better served (see para. 5.7)	
5.8(d)	conduct a similar review of the 37 PRLs granted to NGOs and other organisations in paragraph 1.3(b) to (e) to ascertain if the Administration is facing similar problems and challenges ahead with these PRLs (see paras. 1.19 and 5.6)	
5.9(a)	examine individual PRLs on a case-by-case basis and consider how they should be revised/refined in the light of changes in circumstances, taking into account the key	

Paragraph	Recommendations	Timetable for taking forward the recommendations/ other responses
	principles set in the forthcoming policy review on PRLs (see paras. 2.9(a), 2.12 and 2.29)	additional conditions on a case-by-case basis.
5.9(b)	set up an effective mechanism to monitor the use of PRL sites, including the requirement to approve the developments on the PRL sites and the conduct of regular site inspections under the enforcement regimes of the HAB/Lands D (see paras. 2.11 and 4.7 to 4.10)	Part of the comprehensive policy review is to strengthen the monitoring mechanism. Preliminary findings of the review are expected by the end of 2014.
5.9(c)	draw up planning standards to help assess how PRL sites should in future be reasonably apportioned among sports and non-sports facilities to meet the purpose of the PRLs (see para. 2.12)	Part of the comprehensive policy review is to draw up a set of assessment guidelines to ensure reasonable apportionment of PRL sites. Preliminary findings of the review are expected by the end of 2014.
5.9(d)	keep the clubs' membership and their use of the PRL sites under regular review (see para. 2.17)	The comprehensive policy review will take stock of the experience gained from over a year of implementing the "opening-up" schemes, and explore options for regular reviews of such schemes. Preliminary findings of the review are expected by the end of 2014.
5.9(e)	step up controls to ensure that in future, commitments made to ExCo relating to PRL policy are properly followed through for implementation (see para. 2.17)	The Administration has been handling matters related to the PRLs in accordance with ExCo's policy decisions. We will brief ExCo on the findings of the latest policy review upon completion of the report, and implement new policies and measures under the policy guidance of ExCo.

Paragraph	Recommendations	Timetable for taking forward the recommendations/ other responses
5.9(f)	in future cases of sufficient importance, seek the advice of ExCo before granting the PRL (see para. 2.24)	The HAB will work closely with the Lands D and will seek the advice of ExCo where there are sufficient justifications to do so.
5.9(g)	keep the approved “opening-up” schemes for individual private sports clubs under regular review and monitor the scheme usage by Outside Bodies (see para. 3.21)	The comprehensive policy review will take stock of the experience gained from implementing the “opening-up” schemes, and explore options for regular reviews of such schemes. Preliminary findings of the review are expected by the end of 2014.
5.9(h)	closely monitor how the club mentioned in paragraph 3.22 (i.e. the club in Example 3) would implement its proposed “opening-up” scheme on the PRL before approval is granted	We will examine how the club would implement its “opening-up” scheme before granting approval.
5.9(i)	issue detailed guidelines to help private sports clubs report the scheme usage in their quarterly reports submitted to the HAB (see para. 3.24)	We will take stock of the experience gained requiring private sports clubs to submit quarterly reports. We expect to issue new guidelines in mid-2014 to assist clubs to make more detailed and accurate reports.
5.9(j)	set up a proper mechanism to verify the reported usage of the clubs’ sports facilities by Outside Bodies (see para. 3.24)	We will take stock of the experience gained from requiring private sports clubs to submit quarterly reports. We will step up the verification of quarterly reports upon the release of new guidelines in mid-2014.
5.9(k)	continue stepping up publicity on the clubs’ facilities available for use by Outside Bodies and coordinating with the Education Bureau to encourage schools in the vicinity of the clubs to make more use of the clubs’ facilities	We will in 2014 coordinate with the Education Bureau to encourage schools to make more use of clubs’ facilities. We will follow up with individual lessees in cases of low utilization by Outside Bodies to improve usage

Paragraph	Recommendations	Timetable for taking forward the recommendations/ other responses
	(see paras. 3.26 and 3.29)	by, for example, adjusting publicity strategies.
5.9(l)	take note of the obstacles ahead which might discourage Outside Bodies from using the clubs' facilities and take steps to overcome them as far as possible (see para. 3.33)	We will place advertisements on print media in the first quarter of 2014.
5.9(m)	follow up the irregularities/suspected non-compliances with Conditions of Grant reported in Examples 9 to 15 (see paras. 4.11 to 4.13)	The Lands D is following up on the cases raised by the Audit Commission, and will seek HAB's advice as necessary.
5.9(n)	conduct checks on the suspected commercial/subletting cases identified in Example 12 in paragraph 4.13, with scope expanded where appropriate, to other private sports clubs holding PRLs, and determine the full extent and propriety of such practices	
5.9(o)	critically review the existing PRLs and improve the Conditions of Grant in the long term, taking into account the useful Special Conditions identified in some of the existing PRLs which may help effective implementation of the Government's policy on PRLs (see paras. 4.14 and 4.15)	Upon expiry of existing PRLs, the Lands D will take advice from the HAB, and consider whether the PRLs should be renewed with additional conditions on a case-by-case basis.
5.9(p)	work collaboratively with the Secretary for Development and Heads of other relevant government departments to assess whether any of the PRLs due for renewal should be renewed (see para. 5.4(a))	The comprehensive policy review will assess the status of PRLs due for renewal. Preliminary findings of the review are expected by the end of 2014.

Paragraph	Recommendations	Timetable for taking forward the recommendations/ other responses
5.9(q)	review whether the current practice of only assessing alterations that have been made to the Memorandum and Articles of Association (M&As) since the last renewals is sufficient to ensure that all clubs on PRL sites have duly met the non-discriminatory membership policy requirement (see para. 5.4(b))	When considering applications for PRL renewal, we will examine the existing M&As of the clubs to ensure that clubs on PRL sites have met the non-discriminatory membership policy requirement.
5.9(r)	monitor the progress of the renewals for the 16 expired PRLs mentioned in paragraph 5.4(c), including those clubs which had submitted timetables for rectifying breaches on PRLs in paragraphs 4.11 and 4.12	As of 30 November 2013, three of the 16 expired PRLs mentioned in paragraph 5.4(c) have been renewed, including the one mentioned in paragraphs 4.11 and 4.12. The club concerned was granted renewal of its PRL after the breaches were rectified. Our aim is for the remaining 13 PRLs to be renewed in 2014.
5.9(s)	resolve the issue that part of the PRL site has overlapped with the Country Park in Example 16 (see para. 5.4(d))	The club was first granted the PRL in 1961. The current boundary of the Country Park was gazetted in 1979. According to the Hong Kong Police Force, revision of the lot boundary is inappropriate taking into account the latest licensing safety requirements.
5.9(t)	review the current status of the PRL mentioned in paragraph 5.4(e) which had expired since 1996, but was still under “hold-over” arrangement on quarterly basis, and critically consider whether the existing “hold-over” arrangement should continue	As the lot concerned is planned for development, the lessee can only renew the lease, which expired on 25 December 1996, on a quarterly basis. The Administration has the right to terminate the lease with three months' prior notice. We understand that the relevant government departments will decide on when to resume the lot for other public purposes in accordance with established mechanism.

Public Accounts Committee
Public hearing on 2 December 2013

Opening Remarks by the Secretary for Development
on Chapter 2: Management of roadside skips of
the Director of Audit's Report No. 61

Mr Chairman and Members of the Public Accounts Committee,

- As stated in the Audit's Report, the issues caused by roadside skips are multi-faceted, including posing obstruction to road users and posing road safety risks, creating environmental and public hygiene problems, causing nuisance and obstruction to neighbourhood, causing damages to roads and rendering unlawful occupation of government land. To address these issues from various perspectives including district street management, traffic and transport, public road maintenance, waste removal and land administration, it involves various policy areas and departments. The Audit Commission has recommended that the bureaux concerned, i.e. the Development Bureau, the Environment Bureau and the Transport and Housing Bureau, should follow up the issues.
- I have already had preliminary exchanges of views on the Report and its recommendations with the Secretary for the Environment and the Secretary for Transport and Housing. On the whole, we agree with the way forward suggested in the Audit Report in dealing with this matter. The three Bureaux should jointly review the problems caused by skip operations and the effectiveness of the existing regulatory regime, and formulate action plans for regulating and facilitating skip operations. The three Bureaux will set up a joint working group to take forward the relevant work and follow up the other recommendations made in the Report which concern various bureaux and departments.
- At present, the relevant departments are tackling the problems caused by roadside skips according to their nature through their respective applicable legislations and administrative measures. Such a regulatory approach involves both demarcation of responsibilities and areas of co-operation among different departments. For example, the Environmental Protection Department and the Transport Department have formulated guidelines setting out good practices for skip operations. For skips causing serious obstruction or imminent danger to the public and vehicles, the Hong Kong

Police Force will take immediate actions to remove the skips and where appropriate, take prosecution actions under the Summary Offences Ordinance. For non-emergency cases, the Lands Department (LandsD) will take land control actions in accordance with the Land (Miscellaneous Provisions) Ordinance.

- In conducting the review, the inter-departmental joint working group will take into account a number of factors, including the modus operandi and needs of the skip industry, the experience of relevant departments in skip management, the applicability and suitability of relevant legislations and administrative measures as well as other related legal and administrative matters. As the problems caused by roadside skips are multi-faceted, the tentative plan would be to complete the review in a year. We will report the progress of the review to the Public Accounts Committee in a timely manner, and will consult the relevant Panels of the Legislative Council as and when required.
- Now, I would like to give a brief account of the work relating to land control of LandsD under the purview of the Development Bureau. At present, LandsD handles roadside skips pursuant to the provisions on unlawful occupation of government land under the Land (Miscellaneous Provisions) Ordinance. Under the Ordinance, LandsD should first post a notice requiring the occupation of the land to cease. If the land occupier fails to comply with the notice, LandsD may remove the skip and institute prosecution where appropriate. The legislation currently invoked by the lands authority focuses on the management and control of land, particularly those affecting the Government's land right on a long-term basis (such as unlawful occupation of government land by structures and unauthorised development). As stated in the Audit's Report, this is not an effective tool in regulating roadside skip operations. Regarding the recommendations made in the Audit's Report on the future work of LandsD, the Department will take follow-up actions, including stepping up of prosecution actions. We will also report this to the Public Accounts Committee on a regular basis.
- Coming up, the Secretary for Environment and the Acting Secretary for Transport and Housing will in turn speak to the Public Accounts Committee.

Development Bureau
Lands Department
November 2013

**Public Accounts Committee
Chapter 2 of the Director of Audit's report No. 61
Management of Roadside Skips**

Opening Remarks by the Secretary for Environment

Dear Chairman and Members

The Environmental Bureau and the Environmental Protection Department agreed with the recommendations in the Director of Audit's report. We will work with the Development Bureau, Transport and Housing Bureau and relevant policy bureaux and departments to jointly examine the problems caused by roadside skips, including blockage of pedestrian paths and road traffic, increased safety risk to road users, damage of road surfaces and associated environmental nuisances, and the need for enhanced control measures.

Before the results of the joint study become available, the Environmental Protection Department will collaborate with concerned government departments to step up publicity for the construction industry and associated transport trades and to jointly promote the adoption of the good work practices featured in the existing guidance on roadside skips.

The site inspections by the Environmental Protection Department indicate that the operation of roadside skips generally do not cause significant environmental nuisance. Where there are situations which indicate violation of the environmental protection legislation, enforcement action will be taken by the Environmental Protection Department.

Thank you, Chairman.

**The Legislative Council Public Accounts Committee’s Public Hearing on
“Management of roadside skips” (Chapter 2)
of the Director of Audit’s Report No. 61
Speech by Acting Secretary for Transport and Housing**

Chairman,

First of all, we would like to thank the Audit Commission for conducting an audit review of the management of skips and providing valuable comments. We would also like to thank the Public Accounts Committee for giving us a chance to further explain our policy and work.

2. As mentioned in the audit report, a skip is often placed at roadside near a construction site or a building under renovation for the construction and fitting-out trades to store temporarily the waste removed from the site, the building or renovation works, so as to reduce environmental nuisance and facilitate the disposal of such waste in a tidy and orderly manner.

3. All bureaux and departments concerned, including the Development Bureau, Environment Bureau, Transport and Housing Bureau (“THB”), Lands Department, Environmental Protection Department, Transport Department (“TD”) and Hong Kong Police Force, will monitor and enforce against skip operation in accordance with their respective policy objectives and power conferred by the law.

4. It is the policy of THB and TD to promote and ensure road safety. From the traffic and transport management perspectives, skips are best placed in works sites rather than at roadside. However, we understand that operationally the relevant trades may not be able to place skips inside works sites or works areas. To reduce public nuisance caused by skips which may affect the smooth flow and safety of road traffic, TD in response to the request of the Steering Committee on District Administration established under the Home Affairs

Bureau, published in 2008 the Guidelines for Mounting and Placing of Skips to stipulate good practices for skip operation, with a view to reducing obstruction to pedestrian and vehicular traffic. Skip users of course have to comply with relevant legislation if they want to place their skips legally on government land, including roads. There is an established mechanism under the existing law to deal with illegally placed skips.

5. As just mentioned by the Secretary for Development, in order to better handle the problems caused by skips, the Government will set up a joint working group to follow up on the recommendations in the audit report. THB and TD will proactively support the joint working group by providing advice and assistance from the traffic and transport management perspectives.

6. Chairman, the above is our brief response to the audit report. We welcome any questions and suggestions from the Committee.

7. Thank you, Chairman.

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電郵地址 Email: adem@landsd.gov.hk
本署檔號 Our Ref: (71) in LDC 3/1010/13
來函檔號 Your Ref: CB(4)/PAC/R61

來函請註明本署檔號

Please quote our reference in your reply



地政總署地政處
LANDS ADMINISTRATION OFFICE
LANDS DEPARTMENT

我們矢志努力不懈，提供盡善盡美的土地行政服務。
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13 December 2013

(Urgent by Fax: 2840 0716)

Public Account Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong
(Attn.: Ms Mary SO)

Dear Ms So,

**Public Accounts Committee
Consideration of Chapter 2 of the Director of Audit's Report No. 61
Management of roadside skips**

I refer to your letter of 4.12.2013 and provide our response to the series of questions as follows (in the same serial order):

- (a) As set out in para. 3.3 of the Audit report, there had been a series of ad-hoc inter-departmental discussions (some by correspondence) on the handling of roadside skips between November 2003 and January 2004. The discussions preceded the establishment of the Steering Committee on District Administration in early 2007. Those ad-hoc discussions involved mainly LandsD, the Police, Transport Department and Highways Department.

In the course of those discussions, it was agreed that Police would take immediate action if the skip concerned was posing imminent

danger to members of the public or causing serious obstruction on the road, while LandsD would arrange posting of notice under Cap. 28 and subsequent removal of the skip if required for non emergency case. The rationale behind this agreement has not been documented in our file records. We believe the arrangement has taken into account limitations cited by other departments and what could possibly be done under existing laws.

- (b) The District Lands Office/Hong Kong East (DLO/HKE) acted on the 166 complaints for unauthorized placement of skips at Performing Arts Avenue during the period from 8/2012 to 7/2013 and posted the Cap. 28 notices. All the subject skips were found self-removed before the date of expiry of the Cap. 28 notices. Obviously during that period the area was re-occupied by the same or different skip operators after DLO/HKE had completed each round of land control action. As mentioned in the Audit Report, Cap. 28 Ordinance is not an effective tool for enforcing against skip operations which are mobile by nature and easily movable.
- (c) Although no black-spot list pinpointing the unauthorized placing of skips has been drawn up by DLO/HKE, DLO/HKE has been joining other departments in conducting regular patrol of a list of environmental hygiene black-spots (which may cover roadside skips) drawn up under the ambit of the Food and Environmental Hygiene Committee of Wan Chai District Council. The list currently covers two black-spots of unauthorized placement of skips, namely Sharp Street East and Jaffe Road/Pervical Street (near Sino Plaza). With hind sight, having regard to the frequency of complaints received, the Performing Arts Avenue could have been included.

DLO/HKE is now drawing up a list of black spots pinpointing unauthorized placement of roadside skips in the geographical area of Wan Chai District Council and will soon refer the list to Wan Chai District Council and District Office (Wan Chai) to enlist their assistance in monitoring the black-spots and reporting cases. The list will cover, inter alia, the areas at/near Performance Arts Avenue, Sharp Street East and Jaffe Road/Pervical Street (near Sino Plaza). DLO/HKE will also review the case for drawing up a similar list in respect of geographical areas covered by the Eastern District Council.

- (d) Apart from DLO/SK which has already drawn up a list of black spots for roadside skips, all DLOs will be reminded to review on a periodic basis the need for drawing up and updating such a list having regard to empirical evidence. The black spots should be included in the routine land control patrol programme. Moreover, DLOs should also refer the list to relevant District Councils and District Offices to enlist their assistance in monitoring the black spots and reporting cases.
- (e) Under the “Hybrid System” proposed by HAD in 2009, TD would be responsible for receiving and processing applications for skip permits and considering if the application was objectionable from the angle of road safety and road traffic regulation, while LandsD would grant a licence under s. 5 of Cap. 28 on the recommendation of TD. When the idea was discussed in 2009, LandsD was of the view that :
- (i) such a system, if pursued, should be for the purpose of controlling interference with highways and streets, as in the case of the relevant permit system in the United Kingdom, instead of premised on the basis of unauthorized use of government land;
 - (ii) the system should also be supported by an effective enforcement regime, and in this regard the taking of land control action under Cap.28 against breaches of the permit system would not be effective. This was because land control action under Cap. 28, by its nature, was meant to target occupation by structures, rather than skips which were readily movable but were causing obstruction or inconvenience;
 - (iii) for the proposed permit system to be effective, new legislation or amendments to appropriate legislation would be required.
- (f) In May 2009, LandsD issued new guidelines for handling roadside skips. In particular, the guidelines tighten the timeframe for enforcement action. Specifically, land control staff should inspect the site under complaint/referral as soon as possible and in any case no more than two working days from the date of receipt of the complaint/referral, bringing along copies of notice under s.6(1) of

Cap. 28 for immediate posting once the breach is confirmed. After that, the district term contractor should be alerted about the potential clearance operation to be commenced and completed on the expiry date of the s.6(1) notice. The land control staff should re-inspect the site in the morning of the expiry date. If the skip is still there, they should instruct the district term contractor to remove the skip within the same day.

- (g) Taking into account the Audit report, THB, ENB and DEVB have already undertaken to set up a joint working group to look into the various issues concerning roadside skips. In this regard, it may not be necessary or appropriate for the same issues to be brought up for discussion at the Steering Committee on District Administration convened by Home Affairs Bureau (HAB). That said, we believe HAB and other relevant bureaux/departments now participating in the Steering Committee will be invited to provide their input to the working group.

Yours sincerely,



(Ms Olga LAM)

For Director of Lands

c.c. Secretary for Development	Fax No.: 2151 5303
Secretary for the Environment	Fax No.: 2537 7278
Secretary for Transport and Housing	Fax No.: 2537 6519
Director of Environmental Protection	Fax No.: 2891 2512
Commissioner for Transport	Fax No.: 2598 5575
Commissioner of Police	Fax No.: 2520 1210
Secretary for Financial Services and the Treasury	Fax No.: 2147 5239
Director of Audit	Fax No.: 2583 9063

香港警察總部
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11 December 2013

(Urgent by fax : 2840 0716 & e-mail sywan@legco.gov.hk)

Ms Mary SO
Clerk to Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms SO,

Public Accounts Committee
Consideration of Chapter 2 of the Director of Audit's Report No. 61
Management of Roadside Skips

(Revised Version)

Thank you for your letters of 4 and 5 December 2013 requesting us to provide additional information to facilitate Public Accounts Committee's consideration of the above subject. The information is set out below :-

- (a) In February 2004, subsequent to discussions at the then Team Clean Ad-hoc Inter-departmental Meeting on Street Management ("Team Clean") which was formed to identify practical means to tackle street management problems among departments, the HKPF agreed to take enforcement action against skips causing serious obstruction and/or imminent danger otherwise the Lands Department ("LandsD") would take action from a land control perspective under the Lands (Miscellaneous Provisions) Ordinance, Cap. 28. It was supposed to be a short term measure "pending a longer term solution" in which appropriate legislative amendments may be required.
- (b) Using skips for disposal of construction and renovation waste is an effective means to reduce environmental nuisance and facilitates the construction and fitting-out trades in disposing of such waste in a tidy and orderly manner. Therefore, police action has to be reasonable and proportional; and appropriate to the prevailing circumstances.

Since October 2001, the HKPF raised the issue of skips placed on public roads suggesting the setting up of a system to monitor the movement and placing of skips on public roads. In February 2004, the Team Clean reached an agreement whereby the Police will take immediate action at the scene if a skip is causing serious obstruction on a road or posing imminent danger to the public. Otherwise, all complaints would be referred to LandsD for land control action. For a roadside skip which causes serious obstruction or imminent danger to the public or vehicles, the Police will take removal action under the common law and prosecution action under section 4A of the Summary Offences Ordinance.

- (c) Factors for judging whether the presence of a skip is causing serious obstruction or imminent danger to the public will very much depend on different circumstances prevailing at the scene, such as the layout of the road; traffic flow; visibility and line of sight obstruction caused to motorists or pedestrians. A police officer has to make a professional judgement as to whether a skip is causing serious obstruction and/or imminent danger to the public and if so, a police officer of the rank of Sergeant or above will be called upon to make any decision regarding its immediate removal. The response of the police officer must be seen as appropriate to the prevailing circumstances and represent a reasonable and proportional response to the situation.
- (d) The terms ‘serious obstruction’ and ‘imminent danger’ are a matter of professional judgement. Having considered all the circumstances prevailing at the scene, such as the layout of the road; traffic flow; visibility and line of sight obstruction caused to motorists or pedestrians. Frontline duties have been reminded to take into consideration the Transport Department’s guidelines which may assist them in determining the degree of ‘serious obstruction’ or ‘imminent danger’.
- (e) Skips causing serious obstruction or imminent danger to the public on roads and pavements should be removed; this may be achieved through the owners’ own actions in removing the skip at the police’s request or by Police employing a contractor to remove the skip. The skip operator may be prosecuted by way of summons if there is sufficient evidence for a prosecution. Where a skip is not causing serious obstruction or imminent danger to the public, the case will be referred to LandsD for follow-up actions. However, an individual officer may give advice or warning to the skip operator on the basis of his professional judgement as to which is appropriate and proportional to achieve the objective of resolving the situation.
- (f) Since May 2010, the HKPF has regularly reminded frontline officers of their responsibility in respect of enforcement action against skips causing serious obstruction or imminent danger to the public. It must also be emphasized that enforcement action against roadside skips include immediate removal and other police actions, depending on the situation, such as, (a) if the skip owner could be located, they will be requested to remove the skip; (b) the issue of advice or warning to skip operator; (c) applying for a summons; and (d) refer to LandsD for follow-up actions.

According to the existing records, the HKPF has not used section 32 of the Summary Offences Ordinance (Cap.228) to require skip operators to remove their skips. Section 32(1) stipulates that :

“It shall be lawful for the Commissioner of Police to require any person whose duty it may be to remove any filth or obstruction, or to do any other matter or thing required to be done by this Ordinance, to do so within a certain time to be fixed by the said officer, and, in default of such requisition being complied with, the officer shall cause to be removed such filth or obstruction or do or cause to be done such other matter or thing as aforesaid”.

A skip causing serious obstruction or imminent danger to the public should be removed as expeditiously as the circumstances allow. Section 32 is not practical because it fails to secure the removal of a roadside skip causing a serious obstruction or imminent danger expeditiously. Legal advice was sought from the Department of Justice; it was confirmed that the use of section 4A was correct in that it achieves the objective of removing the skip and where felt appropriate and proportional prosecute the skip operator for placing the skip on a road causing serious obstruction or imminent danger.

Yours sincerely,



(LAM Man-wing)
for Commissioner of Police

c.c. Secretary for Financial Services and the Treasury (fax no. 2147 5239)

政府總部
發展局
規劃地政科



**Planning and Lands Branch
Development Bureau
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傳真 Fax: 2845 3489

16 December 2013

Miss Mary So
Clerk to Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Fax: 2840 0716)

Dear Miss So,

**Public Accounts Committee
Consideration of Chapter 2 of the Director of Audit's Report No. 61
Management of Roadside Skips**

We refer to your letter of 4 December 2013 to the Secretary for Development and have been authorised to reply on his behalf.

Our response to the questions raised in your letter is set out below. We note that questions (a) and (b) have also been addressed to the Secretary for the Environment and the Secretary for Transport and Housing. Our response to these two questions is a joint response by the three Bureaux.

(a) which policy bureau will lead the “聯合工作小組” set up to deal with the problems caused by roadside skips

As we informed the Public Accounts Committee (“PAC”) at its meeting on 2 December 2013, the issues arising from management of roadside skips are multi-faceted, cutting across various aspects including obstruction and causing safety risks to road users, degradation of environmental and public hygiene, nuisance and obstruction to the neighbourhood and pedestrians, damage of roads as well as unlawful occupation of Government land. In view of the complex and diverse

nature of the issues involved, a joint working group (“WG”) will be formed with key participation from the three Bureaux as well as other relevant departments to analyze the problems relating to roadside skips and discuss how best they should be tackled. Appropriate strategies and actions plans for better regulating and facilitating proper skip operations will be formulated. The WG will also examine the most suitable authority for the overall management of skip operations. At the initial stage, the Development Bureau will coordinate the input of the relevant bureaux and departments to the work of the WG.

- (b) whether the one-year timeframe for the “聯合工作小組” to come up with effective measures to address the problems of roadside skips, including deciding whether the problems are a land or a traffic management and road safety issue and demarcating the responsibilities between the Transport Department (“TD”) and the Lands Department (“LandsD”) in dealing with the problems, could be shortened; and if so, when**

It would be imperative for the WG to carefully examine the various issues concerning roadside skips, ascertain the relevant legal aspects and explore different options to enhance the existing mechanism or introduce new regulatory system. The WG would also need to allow sufficient time for the relevant stakeholders to provide feedback on the options to be identified. It is important to allow sufficient time for the work and our initial assessment is that about a year is required. That said, in the light of the PAC’s comments, the WG will commence the necessary work as soon as possible and endeavour to expedite actions with a view to mapping out more effective measures as appropriate. The WG will report progress in its half-yearly report to PAC.

- (c) whether consideration would be given to revisiting the feasibility of adopting a “hybrid” permit system, proposed by the Home Affairs Department, for regulating skip operations under which the LandsD would be the authority for granting permits whilst the TD would process applications having regard to road safety and traffic**

and

- (f) whether consideration would be given to requiring skip owners to purchase accident insurance for their skips placed on roadside**

As mentioned above, the WG will analyze the problems relating to roadside skips and discuss how best they should be tackled. The issues raised by PAC would be among those to be considered by the WG.

- (d) whether the Administration agrees that the nature of a short-term tenancy for use of Government land is inherently different from that of a licence applied from the LandsD under section 5 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) for temporary occupation of Government land**

A Short Term Tenancy issued by Lands Department (LandsD) is a contractual agreement between the Government as landlord and the applicant as tenant for the use of government land. It carries a landlord and tenant relationship and confers legal estate to the tenant. It is usually for a fixed term of three months to three years, and may carry provisions for extension. The landlord is free to determine the rental to be charged and to make adjustment in accordance with the provisions in the tenancy agreement.

On the other hand, a licence issued by LandsD under s. 5 of Cap. 28 is simply a permission to occupy unleased land (government land) according to the statutory provision. It neither carries a landlord and tenant relationship nor confers any legal estate to the tenant. These licences normally carry a fixed term and may carry provisions for extension. The fees chargeable are prescribed under Schedule 1-3 of the Land (Miscellaneous Provisions) Regulations.

Apart from the issue of licences under Cap. 28, LandsD may also permit temporary occupation of government land through the issue of “no objection letters” in its capacity as private landlord. For instance, LandsD issues such “no objection letters” in respect of applications for temporary occupation of specific locations in support of ad hoc activities, e.g. the setting up of fund-raising counters and flower plaques on public pavements. These are usually issued in support of special, ad hoc events and seldom involve the occupation of roads.

- (e) what information does the Buildings Department have on the number of skips in operation at building and renovation sites**

The Buildings Department (BD) is responsible for making provision for the planning, design and construction of buildings and associated works under the Buildings Ordinance (Cap. 123) (BO). Under BO, all building works in private buildings require prior approval of building plans and consent for commencement from the Building Authority (BA), except for building works exempted under Section 41 of the BO or minor works covered by the Building (Minor Works) Regulation. The approval and consent process would ensure that the proposed works are generally in compliance with the BO and the allied regulations. In

addition, except for exempted building works, submission of notices to BA prior to the actual commencement and after completion of the building works is in general required. The notices would serve the purpose of informing BA of the start and end of the relevant building works.

The use of roadside skips concerns choice of working procedures for temporary storage of construction or renovation waste by the Authorized Person or building contractors/decorators and owners/clients concerned, having regard to the site constraints, etc. Such temporary storage is not a matter covered by the approvals, consents or notices as mentioned above. Thus, BD does not have information on the usage of roadside skips in operation. The use of roadside skips is not a matter regulated under BO. It is not appropriate for BA to impose any condition in relation to this aspect in granting approval of building plans and consent to the commencement of building works. Besides, as explained above, not all the building works require prior approval of building plans and consent for commencement from BA.

Yours sincerely,



(Law Kin-wai)

for Secretary for Development

c.c.

Secretary for Transport and Housing	2523 9187
Secretary for the Environment	2537 7278
Secretary for Home Affairs	2537 6319
Director of Home Affairs	2834 5103
Director of Environmental Protection	2891 2512
Director of Lands	2152 0450
Commissioner for Transport	2598 5575
Commissioner of Police	2520 1210
Secretary for Financial Services and the Treasury	2147 5239
Director of Audit	2583 9063



立法會

LEGISLATIVE COUNCIL

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4 December 2013

(Urgent by fax: 2151 5303)

Mr Paul CHAN Mo-po, MH, JP
Secretary for Development
18/F, West Wing
Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

Dear Mr CHAN

Public Accounts Committee

Consideration of Chapter 2 of the Director of Audit's Report No. 61

Management of roadside skips

Thank you for attending the public hearing on 2 December 2013.

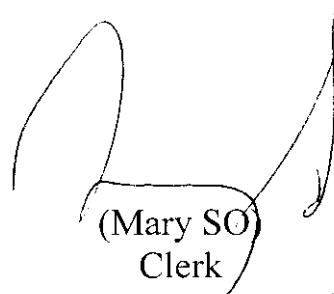
To facilitate the Committee's consideration of the captioned Chapter of the Director of Audit's Report No. 61 ("Audit Report"), I should be grateful if you could provide responses in writing to the following:

- (a) which policy bureau will lead the "聯合工作小組" set up to deal with the problems caused by roadside skips;
- (b) whether the one-year timeframe for the "聯合工作小組" to come up with effective measures to address the problems of roadside skips, including deciding whether the problems are a land or a traffic management and road safety issue and demarcating the responsibilities between the Transport Department ("TD") and the Lands Department ("Lands D") in dealing with the problems, could be shortened; and if so, when;

- (c) whether consideration would be given to re-visiting the feasibility of adopting a "hybrid" permit system, proposed by the Home Affairs Department, for regulating skip operations under which the Lands D would be the authority for granting permits whilst the TD would process applications having regard to road safety and traffic;
- (d) whether the Administration agrees that the nature of a short-term tenancy for use of Government land is inherently different from that of a licence applied from the Lands D under section 5 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) for temporary occupation of Government land;
- (e) what information does the Buildings Department have on the number of skips in operation at building and renovation sites; and
- (f) whether consideration would be given to requiring skip owners to purchase accident insurance for their skips placed on roadside.

I should be grateful if your responses in writing could reach us **on or before 11 December 2013 (Wednesday)**. In line with our usual practice, your responses may be included as Appendices in the Committee's Report which will be published in both English and Chinese. You are thus requested to provide a Chinese translation of your responses at the same date. In the meantime, please provide a soft copy of your responses (in Microsoft Word format) via e-mail to sywan@legco.gov.hk.

Yours sincerely



(Mary SO)
Clerk

Public Accounts Committee

- c.c. Secretary for the Environment (fax no. 2537 7278)
- Secretary for Transport and Housing (fax no. 2537 6519)
- Director of Environmental Protection (fax no. 2891 2512)
- Director of Lands (fax no. 2152 0450)
- Commissioner for Transport (fax no. 2598 5575)
- Commissioner of Police (fax no. 2520 1210)
- Secretary for Financial Services and the Treasury (fax no. 2147 5239)
- Director of Audit (fax no. 2583 9063)

中華人民共和國香港特別行政區政府
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

政府總部
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Secretary for the Environment
Government Secretariat
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14 January 2014

Miss Mary SO
Clerk to Public Accounts Committee
Legislative Council Secretariat
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(Fax : 2840 0716)

Dear Miss SO,

Public Accounts Committee
Consideration of Chapter 2 of the Director of Audit's Report No. 61
Management of Roadside Skips

Further to our letter of 17 December 2013, we would like to advise that, with immediate effect, the Environment Bureau will take lead to coordinate the Administration's efforts in improving the management of roadside skips through the joint working group, with the participation of the relevant bureaux and departments.

If you have any queries, please contact Mr David WONG of the Environmental Protection Department at 3509 8625.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Katharine Choi', written over a horizontal line.

(Miss Katharine CHOI)
for Secretary for the Environment

c.c.

Secretary for Development	(fax no. 2151 5303)
Secretary for Transport and Housing	(fax no. 2537 6519)
Secretary for Home Affairs	(fax no. 2537 6319)
Director of Home Affairs	(fax no. 2834 5103)
Director of Lands	(fax no. 2152 0450)
Commissioner for Transport	(fax no. 2598 5575)
Commissioner of Police	(fax no. 2520 1210)
Secretary for Financial Services and the Treasury	(fax no. 2147 5239)
Director of Audit	(fax no. 2583 9063)

香港警察總部
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21st January 2014

(By fax : 2840 0716 & e-mail : mso@legco.gov.hk)

Ms Mary SO
Clerk to Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms SO,

Public Accounts Committee
Consideration of Chapter 2 of the Director of Audit's Report No. 61
Management of Roadside Skips
Correction of Inaccurate Statistics

Background

At the Public Accounts Committee (PAC) Hearing held on 2nd December 2013, members of the PAC noted that statistics provided by the Hong Kong Police Force in 2010 and 2011 relating to the number of traffic accidents involving skips detailed in 'Chapter 2 of the Director of Audit's Report No. 61 Management of Roadside Skips' were different from the same set of figures presented to Legislative Council (LegCo) on earlier occasions.

At the PAC Hearing an apology was offered and clarification was made to explain the anomalies that the figures contained in the said Audit Report were indeed correct. The inconsistency occurred when frontline officers were using the Traffic Operations and Management System (TOMS), a police computer system to record details of all traffic accidents, they utilised a pull down menu in which the titles were only available in English and this had resulted in them selecting the wrong heading. Instead of 'slip' or 'skid' as causation factors in some cases, they mistakenly selected 'skip', thus unnecessarily inflating the accident rate for skip-related cases. We have initiated measures to modify the pull down menu to include the appropriate Chinese terms and these will be in place by mid 2014. In the interim close supervision has been exercised to prevent a re-occurrence.

Whilst accepting police's explanation, the Chairman of the PAC, Hon Abraham SHEK Lai-him, directed that the information recorded in LegCo records should be updated.

Figures provide on previous occasions

First Incident

On 9th March 2011 Mr. Edward YAU, Secretary for the Environment, provided a written reply to Hon KAM Nai-wai concerning 'Skips placed on Streets'. In his reply Mr. YAU reported that there had been a total of 66 traffic accidents involving skips during 2010.

Second Incident

On 14th November 2012 Mr. Paul CHAN, Secretary for Development, provided a written reply to Hon Andrew LEUNG concerning 'Roadside Cargo Compartments'. In his reply Mr. CHAN reported that there had been a total of 77 traffic accidents involving cargo compartments (skips) resulting in 85 casualties during 2011.

As per the above reason, it was only discovered during the PAC meeting that there were in fact only two traffic accidents involving skips in the year of 2010 and 2011 respectively.

In light of the above information and as directed by the Chairman of the PAC, I should be grateful if you would kindly assist to address the anomalies in LegCo records. Your kind assistance is most appreciated.

Yours sincerely,



(LAM Man-wing)
for Commissioner of Police

c.c. Development Bureau
PAS (Planning and Lands) 7
(Attn: Mr. LAW Kin-wai) (Fax No.: 2186 8919)

Environmental Protection Department
Sr. Env Protection Officer (Regional S) 6
(Attn: Dr. HA Kwok-kuen, David) (Fax No.: 2114 0139)



運輸署

Transport Department

APPENDIX 25

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By Fax to 2840 0716
& By Post

17 December 2013

Ms Mary SO
Clerk to Public Accounts Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road, Central
Hong Kong

Dear Ms SO,

Public Accounts Committee
Consideration of Chapter 2 of the Director of Audit's Report No. 61
Management of Roadside Skips

I refer to your letter of 4 December 2013 addressed to the Commissioner for Transport and our telephone conversation on 13 December 2013.

I enclose in the Annex to this letter our responses to the questions raised, for your reference.

Yours sincerely,

(K. B. TO)

for Commissioner for Transport

c.c.	Secretary for Development	(Fax - 2151 5303)
	Secretary for the Environment	(Fax - 2537 7278)
	Secretary for Transport and Housing	(Fax - 2537 6519)
	Director of Environmental Protection	(Fax - 2891 2512)
	Commissioner of Police	(Fax - 2520 1210)
	Secretary for Financial Services and the Treasury	(Fax - 2147 5239)
	Director of Audit	(Fax - 2583 9063)

Public Accounts Committee (PAC)
Consideration of Chapter 2 of the Director of Audit's Report No. 61
Management of Roadside Skips

Letter ref. CB(4)/PAC/R61 dated 4 December 2013 from PAC
Responses to Comments

Questions	Responses (English)	Responses (Chinese Translation)
<p>(a) What were the reasons for the Transport Department ("TD") to issue a set of guidelines on mounting and placing of roadside skips for skip operators' compliance on a voluntary basis in January 2008, instead of formulating a legislation to regulate roadside skips;</p>	<p>"Obstruction by on-street skips" was one of the inter-departmental district management issues discussed by the Steering Committee on District Administration ("SCDA") under the chairmanship of the Permanent Secretary for Home Affairs ("PSHA") with relevant heads of departments as members. TD and the Environmental Protection Department ("EPD") jointly convened a meeting in April 2007 with six trade associations (which represented around 80% of skip operators), before the second SCDA meeting held in May 2007. It is unclear from available record on whether TD and EPD met the trades upon the request of the Steering Committee.</p> <p>At the meeting, TD proposed some short-term measures to improve the safety of skips, e.g.</p>	<p>"街上環保斗造成的障礙"是以民政事務局常任秘書長為主席的「地區行政督導委員會」(下稱"委員會")討論過的跨部門地區管理事宜之其中一項，委員會成員亦包括了各有關部門首長。在2007年5月的第2次委員會會議舉行前，運輸署聯同環保署與代表了大約百分之八十的環保斗經營者的6個同業聯會在2007年4月舉行了會議。但現存紀錄沒有明確顯示運輸署及環保署與業界的會面是否應委員會的要求而安排。</p> <p>運輸署在會上建議了一些短期措施，以改善環保斗的安全，例如為環保斗塗上鮮黃</p>

	<p>improving the colour and outlook of skips such as painting in bright yellow and installing yellow flash lights at night. Representatives from the trade were generally supportive of TD's suggestions. At the SCDA meeting in May 2007, it was agreed that TD should develop guidelines aimed at improving the safety of the use of skips placed on roads. The meeting also agreed that TD and EPD should consult the trade on the guidelines before promulgation. Accordingly, TD consulted the trade in mid 2007 on a set of draft guidelines which had incorporated some of the short-term measures discussed with the trade in the April 2007 meeting. The set of guidelines were finalized and distributed to the trade in January 2008.</p> <p>It should be noted that there is already existing legislation enabling the Lands Department ("LandsD") and the Police to take enforcement actions against roadside skips under the Lands (Miscellaneous Provisions) Ordinance (Cap. 28) and the Summary Offences Ordinance (Cap. 228) respectively.</p>	<p>色及在晚上裝設黃色閃燈，以改進環保斗的顏色及外觀。業界代表普遍對運輸署的建議表示支持。委員會在 2007 年 5 月的會議上同意由運輸署制定一套指引以改善在道路上擺放環保斗的安全。會議上亦同意運輸署及環保署應在公布該指引前諮詢業界。運輸署於是在 2007 年年中就指引擬稿諮詢業界，擬稿中的建議包括了 2007 年 4 月與業界商議的部分短期措施。指引在 2008 年 1 月完成及分發給業界。</p> <p>須注意的是現時地政總署及警方已分別可以根據香港法例第 28 章《土地(雜項條文)條例》及第 228 章《簡易程序治罪條例》對路旁環保斗採取執法行動。</p>
<p>(b) What were the views held by the Transport Department ("TD") on the "hybrid" permit system for</p>	<p>The "hybrid" permit system was discussed in the SCDA meeting held in February 2009. Under the proposed "hybrid" permit system, LandsD would be</p>	<p>建議的“混合”許可證制度是在 2009 年 2 月的委員會會議上討論過的。在建議的“混合”許可證制度下，地政總署是作為</p>

<p>regulating skip operation previously proposed by the Home Affairs Department;</p>	<p>the authority for granting permits while TD would process applications having regard to road safety and traffic regulations consideration. As recorded in the SCDA Paper No. 3/2009 (the Paper), TD did not consider that it was in the position to process skip permit applications, as road safety was only one of the considerations in processing the applications. It was also mentioned in the Paper that the statistics on accidents caused by roadside skips were insignificant at the time and that the Police were already empowered under section 4A of the Summary Offences Ordinance (Cap. 228) to remove any roadside skips causing serious obstruction or imminent danger to road users.</p>	<p>發出許可證的主管機構，而由運輸署負責從道路安全及交通規管的考慮下處理許可證的申請。正如委員會文件編號 3/2009 中紀錄到，運輸署當時認為道路安全只是處理申請必須考慮的因素之一，因此不同意適合由該署處理許可證的申請。文件也提到當時環保斗導致的意外並不顯著，而警方已在法例第 228 章《簡易程序治罪條例》第 4A 條下獲賦予其權力可以移走造成嚴重阻塞或對道路使用者有即時危險的路旁環保斗。</p>
<p>(c) Whether the TD would re-open the discussion on matters relating to roadside skips at the Steering Committee on District Administration (“the Steering Committee”);</p>	<p>As reported to the Public Accounts Committee at its meeting on 2 December 2013, the issues arising from management of roadside skips are multi-faceted, cutting across various aspects including obstruction and causing safety risks to road users, degradation of environmental and public hygiene, nuisance and obstruction to the neighbourhood and pedestrians, damage of roads as well as unlawful occupation of Government land. In view of the complex and diverse nature of the issues involved, a joint working group will be formed with key participation from the three Bureaux (i.e.</p>	<p>正如在 12 月 2 日的政府帳目委員會會議中所匯報，與路旁環保斗管理相關的問題有多個方面，涉及不同的範疇，包括對道路使用者構成的阻礙和危險、環境和公眾衛生的惡化、對社區和行人的滋擾和阻礙、道路的損壞及非法佔用政府土地。有見於所牽涉問題性質複雜及多樣，當局會成立一聯合工作小組，主要成員為三個決策局（即發展局、環境局及運輸及房屋局），並包括其他相關部門。工作小組會分析路旁環保斗的問題，討論可如何作有效處理，並擬定適當的策略及行動計劃以更好地規</p>

	<p>the Development Bureau, the Environment Bureau and the Transport and Housing Bureau) as well as other relevant departments to analyze the problems relating to roadside skips and discuss how best they should be tackled. Appropriate strategies and action plans for better regulating and facilitating proper skip operations will be formulated. TD will contribute to the work of the joint working group by providing advice and assistance from traffic and road safety perspectives.</p>	<p>管及便利環保斗的妥善運作。運輸署會從交通及道路安全的角度為聯合工作小組的工作提供意見及協助。</p>
<p>(d) Whether the TD has stepped up enforcement actions on roadside skips, following the Steering Committee's decision not to pursue the setting up of a permit system in May 2010 (paragraph 3.6 of the Audit Report refers); and if so, what these actions are;</p>	<p>At present, the two pieces of legislation under which enforcement action can be taken against roadside skips are the Lands (Miscellaneous Provisions) Ordinance (Cap. 28) and the Summary Offences Ordinance (Cap. 228). TD is not the enforcement authority for these two pieces of legislation. As such, TD does not have the power to take any enforcement action against roadside skips.</p> <p>Nevertheless, TD will –</p> <ul style="list-style-type: none">(i) continue to maintain liaison with skip operators;(ii) participate constructively in the work of the joint working group set up to formulate strategies and action plans for regulating and facilitating skip operations; and	<p>現時當局能夠引用以對路旁環保斗採取執法行動的兩條法例是香港法例第 28 章《土地(雜項條文)條例》及第 228 章《簡易程序治罪條例》。運輸署並不是該兩條法例的執法當局。因此，運輸署並沒有權力對路旁環保斗採取任何執法行動。</p> <p>然而，運輸署將會：</p> <ul style="list-style-type: none">(i) 繼續與環保斗經營者保持聯繫；(ii) 以建設性的態度參與聯合工作小組，從而制定能規管及便利環保斗運作的策略及行動方案；及(iii) 安排 1823 熱線把收到有關路旁環保斗的投訴也通知運輸署(現時投訴主要

	<p>(iii) arrange for complaints about skips placed at roadside received by the 1823 hotline to be copied to TD (at present majority of the complaints are sent to the Police and LandsD as they are the departments responsible for taking enforcement action). This will enable TD to have a full picture of the situation. TD will also re-examine cases sent to LandsD (i.e. cases classified as not causing serious obstructions or imminent danger to the public or vehicles). Should there be any that is found to be causing serious obstructions or imminent danger to the public or vehicles, TD will refer them to the Police for enforcement action to be taken.</p>	<p>是轉介給負責執法的警方及地政總署)，以便運輸署可掌握整體實際情況。運輸署也會覆檢轉介地政總署的個案(即情況不被分類為會造成嚴重阻塞或對公眾或車輛構成即時危險的環保斗)。如發現有造成嚴重阻塞或會對公眾或車輛構成即時危險的情況，運輸署會通知警方採取執法行動。</p>
<p>(e) What are the numbers of TD Guidelines for voluntary compliance by skip operators printed and distributed to skip operators respectively, when the Guidelines were introduced in January 2008;</p>	<p>A total of 62,000 hard copies of the Guidelines, comprising 60,000 copies in Chinese and 2,000 copies in English, were printed in January 2008.</p> <p>Our records show that we had distributed the following number of copies in 2008:</p> <p>(i) 2,860 copies (comprising 2800 and 60 copies in Chinese and English respectively) to the trade representatives for distribution to their members;</p> <p>(ii) 18,540 copies (comprising 18,000 in Chinese and 540 in English) to the 18 districts Public</p>	<p>在 2008 年 1 月，共印備了 62,000 份指引，包括 60,000 份中文及 2,000 份英文。</p> <p>根據紀錄，在 2008 年內分發的指引如下：</p> <p>(i) 2,860 份 (包括 2,800 份中文及 60 份英文) 發給業界代表以分發其會員；</p> <p>(ii) 18,540 份 (包括 18,000 中文及 540 份英文) 經民政事務總署給 18 區的諮詢服務中心；及</p> <p>(iii) 4,000 份 (包括 3,200 份中文及 800 份英文) 給運輸署的 4 個牌照事務處，供</p>

	Enquiry Service via HAD; and (iii) 4,000 copies (comprising 3,200 in Chinese and 800 in English) to TD's four licensing offices for public collection.	公眾索閱。
(f) Whether the TD had re-printed the aforesaid Guidelines; and if so, when was this done, and what are the numbers of such Guidelines printed and distributed to skip operators respectively;	TD has not arranged for further printing of the Guidelines based on the following considerations: (i) Sufficient copies of the Guidelines are still available in stock; (ii) TD understands that the trade/skip operators are well aware of the Guidelines including the recommendations therein; and (iii) A soft copy of which is available in TD's website. TD will continue to distribute the Guidelines to relevant parties as appropriate.	運輸署因以下考慮，沒有再印備指引： (i) 已有足夠存貨備用； (ii) 運輸署理解業界/環保斗經營者充分知悉該指引內的建議；及 (iii) 在運輸署的網頁載有該指引的軟複本。 運輸署會視乎情況繼續向有關人士分發指引。
(g) Whether the TD had launched any exercise to educate the skip operators on the need of complying with the above Guidelines; and if so; when; and	According to our records, TD explained the Guidelines to skip operators in a meeting with the 關注全港廢物處理聯席會議 held in 2011. TD has also corresponded with skip operators over the Guidelines and it is clear from the exchanges that the trade is well aware of the Guidelines.	根據我們的紀錄，運輸署在 2011 年舉行的關注全港廢物處理聯席會議上向環保斗營運者闡釋了運輸署的指引。運輸署與環保斗經營者就有關指引的來往信件中亦已清楚顯示業界是充分知悉該指引。
(h) Whether consideration would be given to (i) stepping up efforts to educate the skip operators on	TD will step up promotion of the Guidelines to the trade while working together with other relevant departments and bureaux in the joint working group	運輸署會加強向業界推廣指引，並會在聯合工作小組與其他部門及政策局共同工作以制定能規管及便利環保斗運作的策略及

the need of complying with the above Guidelines, and (ii) setting up of a hotline to receive complaints over placing of skips on public roads that may cause or have caused obstruction to vehicular and pedestrian traffic and posed safety risks to road users and non-compliance of the TD Guidelines for skip operators.

to formulate strategies and action plans for regulating and facilitating skip operations.

The public complaints hotline "1823" system under the Efficiency Unit has been handling complaints against roadside skips with subsequent follow-up work being handled by the Police and LandsD under the enforcement power conferred on them by the Summary Offences Ordinance (Cap. 228) and the Lands (Miscellaneous Provisions) Ordinance (Cap. 28) respectively. As TD is not empowered to take enforcement actions, we do not see the need for the setting up of a complaint hotline by TD. However, TD will arrange for complaints about skips placed at roadside received by the 1823 hotline to be copied to TD (at present majority of the complaints are sent to the Police and LandsD as they are the departments responsible for taking enforcement action). This will enable TD to have a full picture of the situation. TD will also re-examine cases sent to LandsD (i.e. cases classified as not causing serious obstructions or imminent danger to the public or vehicles). Should there be any that is found to be causing serious obstructions or imminent danger to the public or vehicles, TD will refer them to the Police for enforcement action to be taken.

行動方案。

效率促進組底下的公眾投訴熱線“1823”系統一向已處理有關路旁環保斗的投訴，而其後的跟進工作則由警方及地政總署分別在《簡易程序治罪條例》(第228章)及《土地(雜項條文)條例》(第28章)下賦予其執法權力而執行。因運輸署並不擁有法定權力採取執法行動，我們並不認為有需要由運輸署設立投訴熱線。然而，運輸署會安排1823熱線把收到有關路旁環保斗的投訴也通知運輸署(現時投訴主要是轉介給負責執法的警方及地政總署)，以便運輸署可掌握實際情況。運輸署也會覆檢轉介地政總署的個案(即情況不被分類為會造成嚴重阻塞或對公眾或車輛構成即時危險的環保斗)。如發現有造成嚴重阻塞或會對公眾或車輛構成即時危險的情況，運輸署會通知警方採取執法行動。

Our Ref.: (19) in FEHD CI&PC/32-60/10/1C
Your Ref. CB(4)/PAC/R61

11 December 2013

Clerk to Public Accounts Committee,
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong.
(Attn.: Ms Mary SO)
[Fax: 2840 0716]

Dear Ms So,

Public Accounts Committee

Consideration of Chapter 2 of the Director of Audit's Report No. 61

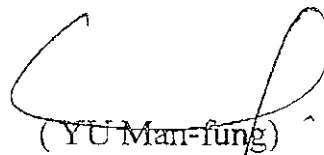
Management of roadside skips

I refer to your letter dated 4 December 2013 on the captioned subject, requesting the Food and Environmental Hygiene Department (FEHD) to provide response in writing to paragraph 3.5(a) of the captioned Report regarding the reason that FEHD has not taken enforcement action against skip owners in the past 10 years.

According to the inter-departmental agreement in 2004 between Lands Department, Hong Kong Police Force, Transport Department, Highways Department, Home Affairs Department and this department in tackling the problem of roadside skips, FEHD will refer the complaints it receives to the relevant District Lands Office (with a copy to the Police) by fax for follow-up action under the Land (Miscellaneous Provisions) Ordinance (Cap. 28). If roadside skips cause obstruction, inconvenience or danger to the public or traffic, the Police may take appropriate action under the Summary Offences Ordinance (Cap. 228). If the person using the skip has littered the surrounding area when loading / unloading the waste, FEHD will require the person concerned to clean up the area or take appropriate enforcement action under the Public Health and Municipal Services Ordinance (Cap. 132).

Since skips are usually stationed on the ground, waste will unlikely be accumulated underneath them. Our observations in the past suggest that persons using the skips would normally clean up the surrounding area after loading / unloading the waste. Breach of Cap. 132 could not be observed. FEHD would take appropriate enforcement action if there is evidence that the skip owners or users have littered or are responsible for causing environmental hygiene nuisances to the vicinity.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a vertical stroke that extends downwards.

(YU Man-fung)
for Director of Food and Environmental Hygiene

**Director of Audit's Report No. 61, Chapter 3
Hong Kong Housing Authority :
Allocation and Utilisation of Public Rental Housing Flats**

Opening Remarks by STH

Chairman,

The Housing Department (the department) is the executive arm of the Hong Kong Housing Authority (HA) and is tasked to implement the policies determined by the HA. The department is responsible for managing 730 000 public rental housing (PRH) flats. As at end-June 2013, the Waiting List (WL) applicants include some 118 700 general applications (i.e. elderly and family applicants) and 115 600 non-elderly one-person applicants under the Quota and Points System (QPS). I welcome the independent Value For Money study provided by the Director of Audit and his colleagues, which forms an important external audit mechanism on top of the internal auditing system of the department.

2. The report of the Director of Audit confirms that, in line with the policies set by the HA, the department has taken a number of initiatives to maximise the rational utilisation of PRH resources. With such a large-scale operation and service area, we recognise that there is always room for improvement in the day-to-day administration of public housing, including rationalising working procedures and enhancing transparency. We will strive to ensure that public housing resources are best used and can meet the housing need of the eligible general public more efficiently.

3. Our objective is to provide PRH to low-income families who cannot afford private rental accommodation, and our target is to maintain the average waiting time at around three years for general applicants on the WL. I must point out that the average waiting time for general applicants is calculated (1) on the average of the waiting time of general applicants housed to PRH over the past 12 months, and (2) the waiting time counts from the date of registration to the date of the first offer of a PRH flat. Currently, applicants will have 3 housing offers to cater for

their choices as far as practicable. In the past, we have mentioned repeatedly the definition of the average waiting time and the basis of its calculation on numerous public occasions, including at meeting of the Legislative Council and to the press. However, in view of the Director of Audit's recommendation, we agree that we can enhance the publicity in this aspect, for example, on the website of the HA and include this in the application guidelines.

4. For the enhancement of transparency in PRH application, we share the Director of Audit's view that there is a need to conduct investigations periodically to identify long-outstanding cases on the WL. In fact, we have conducted analyses of the housing situation of WL applicants annually since 2011 to study, amongst other things, cases on the WL with longer waiting times. We recently reported the outcome of the 2013 analysis to the Panel on Housing of the Legislative Council at the Panel Meeting held on 4 November 2013. We plan to continue with the special analyses and report the same on an annual basis.

5. During the application period, some applicants may have changes rendering their applications ineligible (for example, the household income and/or asset of applicant exceeding the limits and thus have their applications cancelled until they fulfil the criteria again before re-instatement of the applications. This would result in the extension of their aggregate waiting time. For such cases, we would consider providing illustration to ensure that concerned applicants understand the circumstances.

6. Given the limited public housing resources and the lengthening WL for PRH, we consider that priority in the allocation of PRH units should continue to be given to general applicants, including family and the elderly applicants, over non-elderly one-person applicants. Nevertheless, we fully understand that there have been calls from the community for the QPS to be refined. The Long Term Housing Strategy (LTHS) Consultation Document, published by the Steering Committee on LTHS, has also put forward recommendations on the QPS, including allocating more points to those who are above the age of 45, developing a mechanism to regularly review the income and asset of QPS applicants, etc. The public consultation exercise will end on 2 December 2013. We will pass the LTHS Steering Committee's recommendations, any views from the public on this issue received during the public consultation exercise, as well as the Director of Audit's

observations and recommendations to the HA for consideration and implementation, where appropriate.

7. At all times, we do our best to ensure that applications for the PRH are processed promptly and efficiently in accordance with the established policies and good practices. In terms of flat allocation, we will make sure that it is done in an open and equitable manner.

8. In view of the long WL and the increasing AWT for PRH in recent years, the Director of Audit considers that the HA needs to critically review the “Well-off Tenants Policies” to see whether the various parameters of the Housing Subsidy Policy and the Safeguarding Rational Allocation of Public Housing Resources Policy, commonly known as the “Well-off Tenants Policies”, can be fine-tuned and further improved.

9. The Steering Committee on LTHS has taken note that there are divergent views on the Well-off Tenants Policies in the community; some were of the opinion that the policies should be tightened while some advocated for relaxation or even cancellation. The public consultation document on LTHS further invites public’s views on the policies, which will facilitate the HA to further consider the related issues and better utilize the public housing resources..

10. The department has put in place effective measures to detect tenancy abuse cases. In 2013/14, beside strengthening detective measures from frontline management staff, 30 extra experienced estate staff were deployed to the Central Team to step up action to tackle tenancy abuses and to conduct 5 000 additional checks of tenants’ income/assets declarations. Furthermore, the education and promotion programmes to promote awareness of the need of proper use of public housing resources have been strengthened.

11. Having considered the recommendations made by the Director of Audit on handling the Under-occupation (UO) issue in 2006/07, the HA endorsed in 2007 various interim measures and established the “Prioritised UO” (PUO) threshold to deal with the UO cases in a phased approach. The department reviewed the UO policy in 2010 and 2013 respectively to revise the PUO threshold to achieve better results. Among the 54 555 outstanding UO cases listed in the Audit Report, only 1 765 are PUO cases. For the remaining cases which involved the elderly, disabled households and those not reaching the PUO living

density, the HA needs to tackle them in prudence. The HA will continue its efforts to tackle this issue in a pragmatic, caring and considerate approach.

12. As I said earlier, I welcome the audit review on the allocation and utilisation of PRH flats. I want to express my appreciation for the professional manner in which this exercise was conducted, in particular, for the opportunity the department has been given to respond to some of the findings and to clarify many points ahead of the finalization of the Report. We have generally accepted the recommendations and would take follow up action and implement them accordingly. Where policy clearance is required, we would refer them to the HA or its committees for discussion and endorsement.

13. We have prepared some supplementary information sheets and a checklist of cases identified with irregularities in the Audit Report to facilitate Members to understand more on the subjects covered. These have been circulated.

14. Chairman: I together with the Director of Housing and his colleagues will be pleased to answer Members' queries.

ENDS

Your ref. : CB(4)/PAC/R61
Our Ref. : L/M in HD 3-8/EM3/4-35/1

Tel No. : 2761 5878
Fax No. : 2761 7630

Date : 12 December 2013

Clerk
Public Accounts Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
HONG KONG
(Attn.: Ms Mary SO)

Dear Mary,

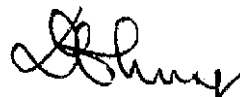
Public Accounts Committee

Consideration of Chapter 3 of the Director of Audit's Report No. 61

Allocation and utilization of public rental housing flats

With reference to your letter dated 4 December 2013 addressed to Secretary for Transport and Housing on the subject issue, I set out the Administration's bilingual response at the **Annex** for your reference, please.

Yours sincerely,


(Danny K.C. CHUNG)

for Secretary for Transport and Housing

Encl.

c.c Secretary for Transport and Housing
Secretary for Financial Services and the Treasury
Director of Audit

Allocation of public rental housing (“PRH”) flats

(a) total cost of a PRH flat including the costs for the construction, repair and maintenance, staff cost, etc;

The average one-off construction cost for a PRH flat (not including the land cost) is about \$700,000. For the management of rental flats after in-take, the average operating cost, including staff cost, maintenance and improvements, Government rent and rates and other operating costs, for 2013/14 is about \$16,000 per PRH flat per annum.

(b) why PRH applicants are not required to submit supporting documents for investments and deposits at the date of application for preliminary vetting;

To expedite the pre-registration vetting to allow applicants to be registered on the Waiting List (WL) within a pledged time of three months and considering the fact that the value of investment and bank deposits will change over time, at present, we do not require PRH applicants to submit supporting documents on investments and bank deposits at the time of application. Instead, we rely on an honour system and request the applicant to declare their asset amount at the time of application and for them to notify us of any changes in the information after registration. The applicant is requested to submit all supporting documents at the detailed vetting stage, which is closer to the time of flat allocation, to determine his eligibility for PRH. To maintain the integrity of the system, the Public Housing Resources Management Sub-section (PHRM) of the Housing Department (HD) will conduct detailed investigations through random selection of the WL applicants both at the initial vetting stage and at the detailed vetting stage. The current system strikes an appropriate balance between asking the applicant to submit too many supporting documents at the application stage hence delaying the application process on the one hand, and guarding against the false submission of information on the other.

We will keep in view the possibility to require the submission of documentation relating to investments and bank deposits at the application stage.

- (c) timetable for publicizing on the Hong Kong Housing Authority ("HA")'s website, PRH pamphlets, brochures and application forms the definition and computation method of average waiting time ("AWT") for family applicants, single elderly applicants as well as non-elderly one-person applicants placed under the Quota and Points System ("QPS");*

We will incorporate the ‘definition and computation method of average waiting time’ for applicants, together with other information recommended by Audit to include for applicants’ reference into the brochure on ‘Waiting List for Public Rental Housing - Information for Applicants’ and into the application form. As we target to complete the editing and printing of the documents by April 2014, our plan is to publicize all such information on the HA/HD’s website at the same time when the new brochure and the new application form are available for use in April 2014.

- (d) whether information on the average of waiting times from the confirmed receipt of the applicant's application to the registration date on the Waiting List ("WL"), from the first offer to the second offer, and from the second offer to the third offer as well as between acceptance of offer and commencement of tenancy for different types of PRH applicants would be publicized on the HA's website; and if so, the timetable;*

The waiting time starts when it is established that the applicant is eligible for PRH. The receipt of an application does not necessarily mean that the applicant concerned fulfills the eligibility criteria and can be registered on the WL. The application must be vetted to ensure that the applicant is eligible. Sometimes, the applicant needs to submit

further documents in support of the application. Hence, the waiting time starts when the HD has vetted the application and considered the applicant eligible for PRH.

While eligible applicants are given three flat offers, the applicants are provided with a housing opportunity at the first offer. In other words, an applicant will be rehoused if he accepts the first offer. It is a matter of personal decision if the applicant declines the first offer to wait for subsequent offers. Hence, the waiting time will only be counted up to the first offer. The decision as to whether or not to accept the first, second or third offer rests entirely with the applicant and is NOT under the control of the HA. It is therefore not appropriate for the HA to publish information regarding aspects of waiting time over which it has no control.

In any case, the past trend of time between offers does not reflect the situation in the future since it depends on the supply and demand circumstances at that particular time. Therefore, publishing past figures on the waiting time, say from the first offer to the second offer or from the second offer to the third offer as suggested may actually be misleading and would not help applicants in making informed decisions.

Nonetheless, we will consider making available additional statistics of WL applicants when the HA conducts the next special analysis of the housing situation of the WL applicants in 2014.

(e) information on the age and occupation of non-elderly one-person applicants over the years;

Based on HA's administrative records, the number of non-elderly one-person applicants under the Quota and Points System (QPS) by age over the past five years are tabulated below-

Age	Non-elderly one-person applicants under the QPS (as at end-March of each year)				
	2009	2010	2011	2012	2013
Below 30	16 400	21 000	29 100	45 600	60 300
30-39	10 600	12 600	14 700	18 400	22 300
40-49	9 700	10 800	11 700	14 100	17 200
50 or above	6 000	6 900	7 900	9 700	11 800
Total	42 700	51 300	63 400	87 800	111 500

Note: Figures may not add up to total due to rounding.

We do not have information in our administrative records about the occupation of non-elderly one-person applicants. For reference, HD conducts the Survey on WL Applicants for PRH each year to collect updated information of WL applicants, which includes the employment/activity status of non-elderly one-person applicants at the time of registration. According to the findings of the surveys, the employment/activity status of non-elderly one-person applicants at the time of registration are tabulated below.

Activity status at registration	Non-elderly one-person applicants		
	WL survey 2010	WL survey 2011	WL survey 2012
Employee / Employer / Self-employed	72%	62%	67%
Unemployed	8%	12%	9%
Student	18%	23%	23%
Others (Homemaker / Housewife / Retiree / Awaiting for employment)	2%	3%	2%
Total	100%	100%	100%

Note: (1) Figures may not add up to total due to rounding.
(2) Activity status at registration for the non-elderly one-person applicants is only available since the 2010 Survey.

- (f) reasons for the 7% of general applicants on the WL (as at 31 March 2013) having waited for 5 years or more for the allocation of PRH referred to in paragraph 2.24 of the Audit Report, and measures that had been/would be taken to address the issues identified;***

In view of the increasing number of PRH applicants and the public concern over the waiting time of WL applicants, HA has been conducting a special analysis of the housing situation of WL applicants every year since 2011. The relevant work includes manually going through individual file records in detail and verifying the information in the file records in order to examine the distribution of waiting time and ascertain the reasons for the long waiting time of individual cases.

Our analysis of the housing situation of the general applicants in the past three years shows that applicants with longer waiting times are in general those opting for flats in the Urban or the Extended Urban Districts. The Urban and the Extended Urban Districts are more popular, and thus applicants opting for flats in these two Districts are more likely to have longer waiting time than in other Districts. Households on the WL with bigger families also tend to have longer waiting time.

As at end-June 2013, there were a total of 2 100 cases on the WL with a waiting time of five years or above and without any flat offer. HA has carried out a special exercise to study those 2 100 cases. Results show that many of the cases involve special circumstances of various kinds, including change of household particulars (33%); refusal to accept housing offer(s) with reasons (13%), as well as other circumstances such as cancellation periods, location preference on social/medical grounds and applications for Green Form Certificate for purchasing Home Ownership Scheme (HOS) units (8%).

There will be a steady supply of newly completed flats in the Urban and Extended Urban Districts in the next few years. Also, among the new production from 2013-14 to 2016-17, about 19% would be one/two-person units, 25% would be two/three-person units, 39% would

be one-bedroom units (for three to four persons) and 16% would be two-bedroom units (for four persons or above). The new supply should help meet the demand for PRH in the Urban and Extended Urban Districts and for three to four person households.

Apart from new PRH production, HA will also strive to address the demand through recovery of PRH flats. Based on HA's experience, there is a net gain of an average of about 7 000 flats recovered from surrender of flats by sitting tenants as well as enforcement actions against abuse of PRH resources, which could be made available for allocation to WL applicants every year.

To rationalize the use of public housing resources, HA has recently reviewed the under-occupation (UO) policy and endorsed a series of revised measures which took effect from 1 October 2013. According to HA's experience, units recovered from UO cases were mostly one-bedroom units suitable for re-allocation to three to four-person households. This latest measure should help increase the supply of PRH flats, especially for households of three to four persons.

HA will also strengthen action in tackling abuse of PRH resources through carrying out rigorous investigations into occupancy-related cases randomly selected from PRH tenancies and suspected abuse cases referred by frontline management and the public. In 2012/13, HD proactively investigated some 8 700 cases, and some 490 PRH flats were recovered on grounds of tenancy abuse. Furthermore, to detect suspected non-occupation cases, HD completed an 18-month "Taking Water Meter Readings Operation" in all PRH flats in July 2012, and in view of its effectiveness in recovering PRH flats, HD will launch similar operations again in the future.

- (g) whether consideration would be given to making "3 offers in one go" to an applicant in the allocation of PRH flats with a view to shortening the AWT; if not, why not;***

The '3 offers in one go' approach was introduced in April 1999 but this was not welcomed by WL Applicants. The HA thus reverted to the single-offer allocation methodology in April 2001. Our experience indicates that the '3 offers in one go' method will largely reduce the availability of housing resources for allocation and prolong the processing time since three flats will have to be frozen simultaneously for the applicant to make his decision, instead of allowing three applicants to consider their respective offers at the same time. Besides, when housing resources are in short supply, it is possible that all three offers being generated through random computer batching may fall within the same sub-district, which may not meet the special circumstances of individual applicant. On balance, we consider it more appropriate to maintain the current approach of making three separate offers to an applicant. The fact is that if the applicant takes up the first offer, he will be rehoused at that point of time. This method offers better options for applicants and allows for more efficient deployment of available units.

(h) breakdown by reasons of PRH applications put on hold or frozen due to failure to fulfil residence requirement, imprisonment of applicants, or pending arrival of applicants' family member(s) for family reunion;

As at end-June 2013, among the 118 700 general applications on the WL, 5 590 were frozen cases pending fulfillment of residence requirement, 60 were frozen cases owing to imprisonment of applicants, and 130 cases were frozen as requested by the applicants, e.g. pending arrival of applicants' family member(s) for family reunion or provision of divorce document.

(i) reasons for the increased average case investigation time by the Public Housing Resources Management Sub-section ("PHRM") for the period 2008-2009 to 2012-2013 (up to July 2013);

Under the existing mechanism, the staff of the Applications Sub-Section

of HD will interview the applicants and check their household income and assets with supporting documents provided by them at the initial stage. PHRM is required to complete the income and assets investigation of randomly selected PRH applications in around three months. However, for uncooperative applicants who do not follow the schedule date to attend the interview or do not produce supporting documents such as the employment certificates, the investigation time would be extended. In addition, PHRM has redeployed their existing manpower resources to focus on tackling tenancy abuse in the past two years.

- (j) internal guidelines issued to deal with the unduly long time taken by PHRM for the random checking of applicants' income and assets in the past few years referred to in paragraph 2.74 of the Director of Audit's Report ("Audit Report");***

In view of the Audit findings, we have strengthened our guidelines and reminded investigators to follow the timeframe established in checking the income and assets of PRH applications. To tighten monitoring and supervision, investigators are required to report to their supervisors for cases that cannot be completed within the prescribed timeframe (i.e. 3 months) whereas supervisors are required to review the investigation progress regularly to ensure timely completion of all investigations.

- (k) whether consideration would be given to reinstating the revalidation check system to screen out ineligible PRH applicants on a regular basis; and if so, the timetable;***

In light of the recommendation of the Long Term Housing Strategy (LTHS) Steering Committee and the Director of Audit, and taking into account resource constraint, our priority will be to map out a mechanism to conduct regular revalidation check on the QPS applicants to screen out applications which are no longer eligible. We will put the relevant proposals to HA for consideration in early 2014.

(l) timetable for implementing the audit recommendations referred to in paragraph 2.79 of the Audit Report;

For (a), we will provide more guidance to the applicants by revising the application form, the brochure on ‘Waiting List for Public Rental Housing - Information for Applicants’ and the video clip to advise applicants where to obtain the declaration forms and the proper use of the forms. They will be ready in April 2014.

For (b), for resubmitted applications, we have already included in our reply letter to the applicants the list of outstanding information which he needs to supplement, together with the applicant’s submission for the applicant to follow up.

For items (c) to (e), the names of the deceased persons on WL have been deleted. We have already put in place measures to conduct random checking of outstanding deceased person records on a periodic basis. In addition, we have also adopted a risk-based approach in selecting all long outstanding cases of deceased persons’ record for checking.

For items (f) & (g), the investigation was completed in September 2013 for the reasons for unduly long time taken by PHRM for the random checking of income and assets. Relevant guidelines have been revised in August 2013 to expedite PHRM’s efforts to conduct the checking.

Maximising the rational utilisation of PRH flats

(m) breakdown by reasons of reservation of unlettable flats withheld from allocation referred to in Table 16 of the Audit Report;

These 4 370 unlettable flats include :

- (1) 1 867 flats which are Housing for Senior Citizen Type 1 (HS1)

units; 807 flats which are Converted 1-person (C1P) units. Pending departure of sharing occupants of these flats, they will be recovered and converted to normal rental flats;

- (2) 135 flats are occupied as quarters by warden and Estate Assistants grade staff;
- (3) 689 flats cannot be re-let because some of them are awaiting demolition (those affected by Pak Tin Estate Clearance) and some of them are in Tin Lee House, Lung Tin Estate in Tai O pending conversion to Home Ownership Scheme (HOS) flats for sale;
- (4) 252 flats are reserved by the Urban Renewal Authority for rehousing residents affected by their redevelopment projects; and
- (5) 620 flats are reserved by estates for management or operational usages such as structural repairs; conversion works; sample flats; rewiring works ; temporary office; flats with tenancy terminated pending appeal hearing from applicants, etc.

Reservation of these flats is regularly reviewed by the Regional Chief Managers (RCMs). In light of Audit findings, we have shortened the review interval from bi-monthly basis to 1.5 months basis.

(n) ageing analysis of "under offer" flats referred to in Table 16 of the Audit Report;

As mentioned in Part 3, paragraph 3.6 of the Audit Report, the majority of these “under offer” flats have now been let out. As a result, their last tenancy termination dates can no longer be retrieved from the computer system and an ageing analysis of these flats cannot be performed.

(o) any improvement measures that had been/would be put in place to tackle the issue of those unpopular flats with adverse "Environmental

Indicator'' referred to in paragraph 3.9 of the Audit Report;

Flats which failed to let out for more than nine months; flats with high refusal rates; Housing for Senior Citizen Type II units; Converted Interim Housing units; or flats with adverse 'Environmental Indicator' will be pooled under the Express Flat Allocation Scheme (EFAS). The following measures have already been put in place to help boost the acceptance rates of these flats-

- 1) For flats which fail to be let out for more than 12 months, tenants taking up such flats are entitled to half rent reduction for 8 to 12 months upon acceptance of the offer;
- 2) There are four rounds of flats pooling conducted every year (i.e. two rounds for family flats and two rounds for 1-person flats). For flats which are selected in the first round flat selection of an EFAS exercise but subsequently rejected by applicants, they will be pooled for the second round flat selection under the same exercise; and
- 3) For flats which cannot be let out despite repeated attempts, we will explore alternative usage. Example includes the conversion of rental flats at Tin Lee House, Lung Tin Estate into HOS flats for sale.

(p) an account of the progress made in the letting of those flats pooled for the Express Flat Allocation Scheme ("EFAS") in 2013 and the number of EFAS flats taken up each year by family applicants, single elderly applicants and applicants placed under QPS respectively from 2010 to 2012;

The current phase of EFAS was launched in July 2013. The first round flat selection for family applicants was completed on 28 November 2013. 991 households selected their flats, with 500 accepting our offer as at 30 November 2013. First round flat selection

for 1-person applicants commenced on 5 December 2013.

Regarding the number of flats taken up by different types of applicants from 2010 to 2012, the analysis is as follows :

No. of Flats Taken up by Various Types of Applicants through EFAS				
Year (Phase no.)	Family applicants	Elderly 1-person applicant	Non-Elderly 1-person applicant	Total
2010 (Ph. 15)	996	171	702	1,869
2011 (Ph. 16)	898	489	383	1,770
2012 (Ph. 17)	1,237	664	188	2,089
Total	3,131	1,324	1,273	5,728

(q) why 470 (53%) out of 4 137 vacant flats available for letting referred to in paragraph 3.10 of the Audit Report had not been included in previous EFAS exercises;

The reasons why these 470 flats were not included in previous EFAS exercises are summarized in the following table :

No of Flats	Reasons for not included under EFAS
203	These vacant but not let out flats were not classified as 'less popular flats' because they have been reserved under various rehousing categories such as government clearance projects, estate clearances, etc.

150	These flats were either under offer at the time of flat pooling with offer rejected after finalization of the flat list ; or failed to let out for not more than 9 months at the time of flat pooling. Hence, they did not meet the flat pooling criteria.
116	These flats were reserved by estates or Lettings Unit for various types of transfer use.
1	This flat is a former C1P flat and was only available for letting on 19.3.2013.

(r) why 46 out of 4 137 vacant flats available for letting referred to in Table 17 of the Audit Report had remained vacant for 10 years or more, and measures that had been/would be taken to expedite the letting of these 46 vacant flats;

These 46 flats comprises:

- 1) 42 flats in Lung Tin Estate, Tai O. The HA has already endorsed to convert the rental units in Tin Lee House of this estate to HOS flats for sale;
- 2) one C1P flat in Tsui Ping (North) Estate. The vacant period includes the waiting period for departure of the sharing occupant in order to convert the flat back to an independent one; the time required for the flat conversion works and for carrying out structural repairs work at the external wall of the building;
- 3) the remaining three flats include one flat in Apleichau Estate which has been offered for 42 times; one flat in Cheung Hong Estate and one flat in Shan King Estate, both offered for 38 times. They had also been pooled for EFAS exercises previously. Those who were willing to take up the offer were entitled to 12 months half rent reduction,. These flats were still not let out as at 31.3.2013.

However, the flats in Shan King Estate and Cheung Hong Estate were successfully let out on 20.5.2013 and 6.12.2013 respectively.

(s) reasons for the long refurbishment period for the five vacant flats referred to in Table 18 of the Audit Report;

For the past 3 years up to March 2013, there were about 43,500 vacant flat refurbishment works orders completed and the average turnaround time was 43.87, 43.55, and 43.85 days in 2010/11, 2011/12 and 2012/13 respectively, which all met the HA's performance pledge of not exceeding 44 days. The flats mentioned in Table 18 are very special and isolated cases where longer processing time is justified.

For **Flat 1** and **Flat 2**, they are flats at the top floor of the same block in an estate involving structural roof slab recasting and/or re-roofing works. In performing recasting works, submission, approval and consent from the Independent Checking Unit of the HD were required before commencement of works, thereby resulting in a lengthy works processing time. In fact, immediately after completion of the recasting works in Flat 1 and flat recovery of Flat 2, refurbishment works orders were issued in March and May 2010 with works completed in 42 and 41 days in April and June 2010 respectively but water seepage was then found in the units. As the defect involved roof warranty, the roofing contractor had taken several months to verify the cause of damage before it disclaimed the liability. Though works orders were then issued to the Term Maintenance Contractor in July 2011 to carry out partial re-roofing works, due to unsatisfactory performance of the maintenance contractor, the repair works had taken several months to complete with a total of 4 warning letters issued to the contractor.

As for the remaining 3 flats, they were all Converted-One-Person flats of which complicated works procedures were involved in the conversion process. These procedures include, but not limited to, housing stock maintenance, system updating, rent fixing, approval for installation of water meter by the Water Supplies Department and dismantle of fire

services installation approved by the Fire Services Department. **Flat 3** was purposely reserved for temporary storage and gaining access to the external wall while performing the comprehensive concrete repair from February 2012 to May 2013 in this Tenants Purchase Scheme Estate where the Incorporated Owners had declined to provide storage area for the equipment and materials required for the said repair. As for **Flat 4** which was recovered in January 2013, additional processing time was required to prepare the plumbing design. While the submission to the Water Supplies Department for installation of water meter was made in March 2013 and approval received in May, refurbishment works together with the installation of water meter was completed in July 2013. **Flat 5** was recovered in late February 2013. As mentioned above, conversion works of C1P flats is different from normal refurbishment involving complicated working procedures.

- (t) why 171 Housing for Senior Citizens Type 1 flats and 367 Converted One Person flats referred to in Table 19 of the Audit Report had remained vacant for 10 years or more pending conversion to ordinary PRH;*

In Table 19 of the Audit Report, there were 171 HS1 units and 367 C1P units which had remained vacant for 10 years or more pending conversion to ordinary PRH flats. These flats had been sub-divided previously into two to four units with shared kitchen and toilet. Conversion works can only be carried out upon the recovery of the last occupied unit in the flat.

- (u) why the vacancy period of 598 unlettable flats referred to in Table 19 of the Audit Report was unknown;*

Audit requested the last tenancy termination date for the concerned 598 unlettable flats to determine the vacancy period. Given these units (including 463 vacant flats which have never been let out before, 73 staff quarters and 62 cases involved backdated cases and termination of

additional room tenancies) did not have a termination date as at 31 March 2013, they were classified as “vacancy period unknown”. In fact, except the 73 staff quarters which are still being occupied, the vacancy period for all the remaining vacant flats has been confirmed upon the retrieval of relevant housefiles.

(v) checkings involved in the vetting and investigation of income and asset declarations submitted by PRH tenants under the "Well-off Tenants Policies";

Checkings involve obtaining information on property search, rateable value and size of landed properties, vehicle ownership and business registration from relevant departments as well as enquiries from banks and employers.

(w) any improvement measures that had been/would be put in place to address the high rates of false declarations by PRH tenants under the "Well-off Tenants Policies";

To deter and detect false declarations, we have adopted a three-pronged approach viz. detection and prevention, in-depth investigation and operation as well as publicity and education. HD’s frontline management staff conduct initial checking on the income and assets declarations from all PRH tenants and refer doubtful/marginal cases to PHRM for in-depth investigation. In addition, PHRM also carries out in-depth investigations to randomly-selected cases and all double rent cases.

The management will review and revise as appropriate the current guidelines for conducting in-depth checking and remind staff for compliance. Supervisors will also closely monitor the investigation and offer advice to investigators in doubtful cases.

- (x) *any improvement measures that had been/would be put in place to prevent the recurrence of incorrect input of the exemption indicator in the Domestic Tenancy Management Sub-system referred to in paragraph 3.34 of the Audit Report;*

Periodic memos and Email message had been issued to remind estate staff to counter check the tenants' record so as to purify any irregularities in the Domestic Tenancy Management Sub-system.

Each year well before the commencement of the Housing Subsidy Policy (HSP) cycle, exception reports containing irregular cases are forwarded by PHRM to Housing Managers (HMs)/Domestic Tenancy Management Office (DTMO)/Estate for prompt rectification so as to ensure an accurate retrieval of the HSP cases for income declaration. Commencing from the April HSP cycle, other than forwarding exception reports to HMs/DTMO/Estate for prompt verification and rectification, a progress report showing those unresolved cases will be delivered to all concerned HMs/DTMO/Estate by PHRM in mid February. Respective District Senior Housing Managers (DSHMs) would be informed upon completion of the rectification of those outstanding cases by end February.

- (y) *money spent on implementing the "Well-off Tenants Policies" in the past two years and amount of rent plus rates received from well-off tenants over the same period;*

Under PHRM existing manpower structure, approximately two-fifth of a Senior Housing Manager, 2 Housing Managers, 5 Assistant Housing Managers, 34 Housing Officers, 5 Assistant Clerical Officers, 1 Contract General Clerk, 1 Clerical Assistant and 1 Office Assistant were involved in implementing the "Well-off Tenants Policies" for 2011/12 and 2012/13 at HQs level, the staff cost is about \$27M and \$29M respectively. For those workload incurred by the frontline estate staff, the portion of time spent on this task is not significant.

Public housing subsidy saved, i.e. additional rent received from well-off tenants in 2011/12 and 2012/13 are \$263M and \$245.6M respectively.

- (z) *rationale/consideration(s) behind the requirement laid down under the "Well-off Tenants Policies" for households whose total household income and net asset value both exceed the prescribed limits, or those who choose not to declare their assets, to vacate their PRH flats;*

When formulating the “Well-off Tenants Policies”, HA adopted both “income” and “assets” as the two factors in determining the subsidy for PRH tenants since it was considered that tenants with only an increase in income might not be able to afford the downpayment required for the purchase of a private property. Moreover, the total household income might be affected by changes in the overall economic situation of society, individual trades or an individual’s health condition. If there was only an increase in assets but not in income, the tenants might not be able to afford the monthly mortgage payment or the rent for private flats. On the other hand, if both of their household income and assets had exceeded the respective limits, they should be able to afford to purchase or rent an appropriate accommodation in the HOS or private property markets.

The LTHS Steering Committee has taken note of the divergent views on the policies in the community. The public consultation document on LTHS further invited public’s views on the policies and the collected views would be passed to HA for consideration.

- (aa) *any improvement measures that had been/would be put in place to tackle the well-off tenants issue;*

The “Well-off Tenants Policies” are always contentious and is one of the discussion items of the LTHS Steering Committee. The LTHS Steering Committee has taken note that there are divergent views on the policies in the community. The public consultation document on

LTHS further invited public's views on the policies and the collected views would be passed to the HA for consideration.

(bb) measures in place to identify those under-occupied ("UO") households, number of Housing Department ("HD") staff deployed and annual expenditure on paying home visit to PRH tenants for this purpose;

The main reason for PRH tenants becoming UO households is because of having family members who departed from their PRH flats or died, leading to their deletion from the PRH tenancy. Very often, by conducting the biennial flat inspection, we could obtain the information about the departure of the concerned authorized persons. For detection of deceased family members, the Registrar of Births and Deaths has been providing HD with monthly reports of deceased person records. By carrying out record matching, we could have updated information on deceased person records who are residing in PRH units.

At present, we have about 970 staff working in frontline estate offices and DTMO who are required to conduct the biennial flat inspection (BI). Assuming an Housing Officer to take 10 minutes to complete a BI, it is estimated that about \$17 million staff cost incurred annually for conducting the biennial inspection for detecting the UO households.

(cc)an account of the progress made in dealing with the transfer priority list over the past years and reasons for the 749 most serious cases of UO households that had remained outstanding for two years or more referred to in paragraph 3.52 of the Audit Report;

Over the past 6 years, we have resolved about 21 000 UO cases, as compared against the increase of about 40 000 new UO cases. The number of Prioritised Under-occupation (PUO) cases with living density per person greater than 34m² has been reduced from 4 400 to 1 700 in the corresponding period, i.e. a net decrease of 2 700 (60%) in

spite of the addition of about 2 900 new PUO cases during the corresponding period.

With regards to the 749 PUO cases remaining outstanding for two years or more as stated in paragraph 3.52, some 20 cases, such as staff quarters, estates under estate clearance project, etc. are exempted from UO transfer. Moreover, some of the cases, such as pending family reunion or on other medical or social grounds, have been approved for temporary stay. Also, the delay for some cases is due to the limited supply of small flats within the same estate or the same District Council (DC) constituency of the households residing. Up to 30 November 2013, the number of outstanding PUO cases has further been reduced to 486.

(dd) why six housing offers had been given to the tenant referred to in Case 7 of paragraph 3.56 of the Audit Report from July 2011 to March 2013;

PUO households would be given a maximum of 4 housing offers within the same DC constituency. Upon unreasonable refusal of all 4 offers, the tenancy will be terminated. However, for cases with special grounds meriting discretion, RCM would consider approving an additional housing offer. With regards to Case 7, one of the offers was counted as reasonable refusal. Having examined the case, the RCM exercised discretion to allow the sixth housing offer on compassionate grounds. The tenant eventually accepted a small flat with tenancy commenced in mid August 2013, facilitating HD to recover the 1B flat early without under-going the lengthy appeal mechanism.

(ee) challenges facing the HD in the transfer of UO households;

Taking into consideration the keen demand from applicants of other rehousing categories and the limited supply of small flats, HA could only allocate some 1 000 units for UO transfer in the year 2013/2014. Moreover, the shortage of small flats within the residing DC

constituency of the PUO households may also prolong the handling time for arranging housing offers.

The negative reaction of PUO tenants being required to move to smaller flats is one of the challenges we have to face. During the implementation of the UO policy, the HA has all along adopted a pragmatic, reasonable and considerate approach to handle every case, particularly those with family changes due to decease of members. As for cases with medical and social grounds meriting special discretion, estate staff would seek the special approval of RCMs or DSHMs to grant additional offers or temporary stayput at the present flats on individual merits. We adopt a caring yet persistent approach to persuade those concerned to move. Such an approach inevitably takes time but has proved to be effective.

(ff) any improvement measures that had been/would be put in place to tackle the UO issue in order to avail more PRH flats for the needy families and ensure equitable allocation of PRH resources;

HA had reviewed the UO policy and endorsed revised measures to tackle UO cases in June 2013. Upon implementation of the revised measures in October 2013, the threshold of PUO has been tightened leading to more families becoming PUO households that required for transfer to smaller flats. We will review the policy after 3 years of implementation.

(gg) whether consideration would be given to offering a higher level of Domestic Removal Allowance in order to encourage UO households' transfer to smaller flats;

The granting of Domestic Removal Allowance (DRA) to tenants is intended to meet part of the costs of removal and basic fitting-out works. Our DRA rates are pegged with those adopted by the Government which are reviewed annually by an inter-departmental Compensation

Review Committee in accordance with the basis approved by the Finance Committee of the Legislative Council, and approved by the Secretary for Financial Services and the Treasury under the delegated authority. The same set of DRA rates is applicable to all HA's clearance projects as well as UO and management transfers.

Tackling abuse of PRH

(hh) whether in view of the high rates of detected false declarations, consideration would be given to conducting more in-depth checking on new applications; if not, why not;

Any in-depth and detailed checking before the applicant is registered on the WL will inevitably consume more vetting resources and lengthen the pre-registration period. This is contrary to the original intent of expediting the process to ascertain the eligibility of applicant to be registered into the WL. We will keep in view the possibility to require the submission of documentation relating to investments and bank deposits at the application stage.

(ii) internal guidelines for the alignment of practices within the Applications Sub-section between the Registration and Civil Service Unit (RCSU) and the Waiting List Unit (WLU) in handling false declaration cases identified by PHRM;

An internal guideline to align the practices of both RCSU and WLU in handling false declaration cases was issued on 21 October 2013. In response to PAC's request, a copy of the Internal Guideline is at Appendix for Members' reference. **Since the Guideline is for internal reference only, we would be grateful if it is not included in any report to be issued to the public.**

***Note by Clerk, PAC: Appendix not attached.**

(jj) why the prosecution rate of WL applicants making false declarations referred to in Table 33 of the Audit Report had decreased over the past five years, from 48% in 2008-2009 to 14% in 2012-2013;

Prosecution rate is calculated on the basis of the number of cases going to the Prosecutions Section for consideration of prosecution action as against the number of cases in respect of which prosecution action was ultimately taken. As a decision whether or not to prosecute depends on the sufficiency of available evidence in satisfying the relevant burden of proof for a conviction, the fact that the prosecution rate is low may simply mean that the available evidence in many of the cases submitted to the Prosecutions Section was not sufficient or was not yet sufficient to secure a conviction.

The most important principle is that the departmental prosecutors have to strictly follow the Code for Prosecutors issued by the Prosecution Division of the Department of Justice (DoJ) and they prosecute only when all the elements of an offence are present and in an admissible form.

In our analysis, there are various reasons for the decrease in prosecution rate.

(1) DoJ's Code for Prosecutors - Prosecution cannot direct investigation

DoJ's Code for Prosecutors stipulates that the prosecutor cannot direct investigations, i.e. investigators and prosecutors should take different roles though they are interdependent. In accordance with the DoJ's Code for Prosecutors, the Prosecutions Section ceased to offer any directions for obtaining evidence or setting questions for taking cautioned statements since early 2010. The quality of evidence might have been affected if the investigators were not familiar with the admissibility of evidence.

(2) A change in the nature of false statement cases

False statements may occur in different forms. They include concealment of income and properties which could be proved easily by the production of employer's certificates and land search records. In 2008-09, the majority of false statement cases are concealment of income and properties cases which accounted for over 50% of the total number of false statement cases referred to the Prosecutions Section. However, these cases dropped to less than 33% in 2012-13.

False statement cases also include more difficult cases like concealment of insurance policy, securities (like trust funds) and business ownership and these cases increased substantially from 14% in 2008-09 to 30% in 2012-13. When proving these false statement cases, the prosecution has to prove the asset value and the interest income **at the material time**, i.e. when the statement was made. However, it was difficult to obtain admissible evidence to prove this.

As regards false statements relating to balances of bank deposits, the prosecution could usually seek the bank's confirmation on the balances of bank deposits with the suspect's consent given in the application form or declaration form. However, the banks could refuse to provide any information if the signatures on the forms were different from those with the bank.

(3) A drop of cases with cautioned statement or interviewing officer

In order to prove an offence of false statement under section 26(1)(c) of the Housing Ordinance, the prosecution shall prove beyond reasonable doubt the following elements:-

- (a) a person signed an application for lease;
- (b) he/she had made a statement on the application;
- (c) the statement was false; and
- (d) the false statement was made knowingly.

In most cases referred to the Prosecutions Section, the evidence, which should be admissible, substantial and reliable, merely could prove falsity of the statement made.

The remaining elements of the offence i.e. (a), (b) and (d) mentioned above, could not be established unless in the presence of either an interviewing officer or cautioned statement of the suspect.

Based on the data base of the Prosecutions Section, in 2008-09, **71.3%** of the cases referred to the Prosecutions Section managed to provide cautioned statements from the suspects as evidence while the figure has dropped to **27.7%** in 2011-12 and **30.8%** in 2012-13.

Besides, the proportion of cases without any interviewing officer and/or cautioned statement increased significantly from 22.0% in 2008-09 to 49.7% in 2011-12 and 53.3% in 2012-2013. In other words, about half of the cases did not have admissible evidence to prove the knowingly element required under the Housing Ordinance in 2011-12 and 2012-13.

Without cautioned statement or interviewing officer, it would be difficult for the prosecution to prove beyond reasonable doubt that the suspect made the false statement knowingly at the material time, i.e. offence elements (a), (b) and (d).

Conclusion

It would be fundamentally wrong to treat prosecution rate as a benchmark or target for the prosecution's performance as the rate itself depends on the quality of evidence of the incoming cases. As stated above, the departmental prosecutors have to follow the DoJ's Code for Prosecutors, i.e. the prosecution should be satisfied with the sufficiency of evidence and the prospect of securing a conviction before making the decision to prosecute. **In each and every case**, tremendous care must be taken in the interests of the community at large and the suspect to ensure that a right decision to prosecute or not is made.

(kk) what follow-up actions had been taken against the 1 117 false declaration cases with no prosecution action referred to in paragraph 4.64(b) of the Audit Report;

For false declaration cases with no prosecution action, frontline staff will interview the individual offenders and serve a warning letter to remind them not to commit the misdeed again.

For cases of understating income, thus rendering the household eligible for paying less rent, the frontline staff would ask the tenant/licensee, in writing, to pay the new rent derived from the accurate information with immediate effect and to recover the total amount of rent undercharged. As for those not eligible for allocation of PRH, we would terminate the tenancy and recover the flat.

The 1 117 false declaration cases without prosecution action were largely due to insufficient admissible evidence. Their PRH applications were cancelled on grounds of submission of false information.

(ll) any improvement measures that had been/would be put in place to ensure that HD staff are aware of and observe the requirements to submit relevant files and documents to the Prosecutions Section for taking prosecution action at least two months before the time bar;

Staff are reminded to observe the time-frame for prosecution action. For offences discovered and handled by Estate Office, the housefiles should be forwarded to the Cautioned Statement Team of PHRM for collection of cautioned/witness statements before passing to the Prosecutions Section in accordance with the action time frame. For normal case, the action time is within 14 working days from the date of discovery; while for urgent case, the action time is shortened to within 2 working days. Furthermore, estate staff are reminded to use the Checklist during initial investigation for the establishment of the knowingly element and recording interview / statements.

HD will issue instruction in December 2013 reminding frontline staff to observe the requirement for submission of the relevant files and documents to the Prosecutions Section in accordance with the action time frame.

Others

(mm) timetable for implementing the audit recommendations in the short- and medium-term;

On Audit's recommendation for HD to conduct investigations periodically to identify long-outstanding cases on the WL (para. 2.31(b)), we have in fact conducted an analysis of the housing situation of WL applicants in 2011, 2012 and 2013 to study, amongst other things, those cases on the WL with longer waiting times. The reports of the analysis have been uploaded to the HA/HD website for public's reference. We have also briefed the Legislative Council Housing Panel at the meeting on 4 November 2013 about the analysis of the WL position as at end-June 2013. We will continue with the special analyses on an annual basis.

On Audit's recommendation that HD should conduct a comprehensive review of the QPS and consider the need to screen out ineligible QPS applicants periodically (para. 2.50), the LTHS Steering Committee has, in reviewing the LTHS, examined the position of non-elderly one-person applicants on the WL, and considered options for enhancing the QPS. The LTHS Steering Committee has recently completed a three-month public consultation on the LTHS, including the various enhancement recommendations of QPS. HA will consider the LTHS Steering Committee's recommendations, views gathered during the three-month public consultation as well as Director of Audit's report and the comments received during the Public Accounts Committee's hearings, before deciding whether and how to refine the QPS.

We will, on an on-going basis, enhance legal training for staff working in the Applications Sub-section and estate offices. Plans in hand include organizing more experience sharing seminars (starting from May 2014), with role-play exercises, with the aim of further strengthening their repertoire of knowledge, skills and abilities required to gather sufficient evidence for handling false declaration cases.

With regard to other recommendations accepted by the Administration, actions required are either completed or on-going. Where policy clearance is required for the follow-up action and implementation, they would be referred to the HA or its committees for discussion and endorsement.



Your ref. : CB(4)/PAC/R61
Our Ref. : L/M in HD 3-8/EM3/4-35/1

Tel No. : 2761 5878
Fax No. : 2761 7630

Date : 7 January 2014

Clerk
Public Accounts Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
HONG KONG
(Attn.: Ms Mary SO)

Dear Ms SO,

Public Accounts Committee

Consideration of Chapter 3 of the Director of Audit's Report No. 61

Allocation and utilization of public rental housing flats

With reference to your letter dated 19 December 2013 addressed to Secretary for Transport and Housing on the subject issue, I set out the Administration response at the **Annex** for your reference, please. Chinese translation of the response will follow shortly.

Yours sincerely,

(Deryk YIM)

for Secretary for Transport and Housing

Encl.

c.c. Secretary for Transport and Housing
Secretary for Financial Services and the Treasury
Director of Audit

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Housing Authority Headquarters, 33 Fat Kwong Street, Ho Man Tin, Kowloon, Hong Kong.
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- (a) *why the Hong Kong Housing Authority ("HA"), being the statutory body to develop and implement public housing programmes, has not conducted a review of the Well-off Tenancy Policies and the Quota and Points System ("QPS"), but had to wait for the Steering Committee on Long Term Housing Strategy to complete its review;*

The Well-off Tenants Policies and the Quota and Points System (QPS) for non-elderly one-person applicants for public rental housing (PRH) are controversial issues and there are divergent views in the community. Indeed, when the two issues were discussed at the Subcommittee on Long Term Housing Strategy (LTHS) under the Legislative Council (LegCo) Panel on Housing, divergent views were also expressed by LegCo Members. The Steering Committee on LTHS has examined the housing scene in Hong Kong, including the Well-off Tenants Policies and QPS, and made recommendations in its consultation document. It has just completed a three-month public consultation on 2 December 2013 and is consolidating the public's views for compilation of a report to the Government.

Given the controversy and divergent views of the community on these two subjects, it is only prudent for the Housing Authority (HA) to take into full account of the recommendations of the LTHS Steering Committee; latest views of various sectors of the community as expressed during the three-month public consultation exercise on the LTHS; as well as Director of Audit's report and the comments received during the Public Accounts Committee's hearings before forming its considered views and mapping out the way forward.

- (b) *whether the HA publishes on its website information on the vacant stock of public rental housing ("PRH") flats across districts; if not, why not;*

The Housing Authority has all along been following the principle of optimization of resources. As soon as newly completed units or refurbished units become available, the Lettings Unit will expedite its work in making flat allocation to applicants on the Waiting List and in

other rehousing categories. Since the information on the vacant stock of PRH flats varies drastically from day to day, if we publish such information, it would create confusion to the applicants regarding the vacancy position of flats across districts, and would not help them make their location choice. As such, we do not consider it appropriate to publish such information on our website.

- (c) ***numbers of PRH flats refurbished each year from 2008-2009 to 2012-2013, and the numbers of these flats with refurbishment period longer than the Housing Department ("HD")'s pledge of 44 days;***

The numbers of PRH flats refurbished each year from 2008-09 to 2012-2013 are 18 819, 15 305, 16 120, 14 812 and 13 298 units; and the numbers of flats with refurbishment period longer than HD's pledge of 44 days for the same period are 7 397, 5 746, 7 356, 5 125 and 4 690 units respectively. The pledge for vacant flat refurbishment is an average turnaround time and HD is able to meet the pledge of completing the refurbishment works within 44 days on average. The completion time of each individual refurbished flat will vary according to the complexity of the refurbishment works. For examples, refurbishment involving extensive structural renovations, serious water seepage repairs and re-roofing works above a vacant flat may lead to a longer time for completion.

- (d) ***numbers of PRH flats recovered each year from 2008-2009 to 2012-2013 through enforcement actions and any other means respectively, such as the surrender of flats from well-off tenants, tenants in possession of Housing Ownership Scheme ("HOS") flats;***

From 2008/2009 to 2012/2013, the numbers of PRH flats recovered due to issuance of Notice-to-Quit, voluntary surrender and tenants moved out of PRH upon purchase of HOS flats are summarized below –

Year	2008/09	2009/10	2010/11	2011/12	2012/13
Issuance of Notice-to-Quit	1 683	1 518	1 359	1 403	1 246
Voluntary Surrender	5 400	4 850	5 145	4 560	4 732
Purchase of HOS flats put up for sale by the HA and HOS/Tenants Purchase Scheme flats from the HOS Secondary Market with premium not yet paid	3 160	1 710	3 433	1 188	1 328
Total	10 243	8 078	9 937	7 151	7 306

- (e) *numbers of Housing for Senior Citizens Type 1 units and Converted One Person units recovered each year from 2008-2009 to 2012-2013, and the resultant numbers of normal PRH flats recovered therefrom;*

From 2008/2009 to 2012/2013, the numbers of Housing for Senior Citizens Type 1 (HS1) units and Converted One Person (C1P) units recovered and the resultant numbers of PRH flats recovered therefrom are summarized below –

Year	2008/09	2009/10	2010/11	2011/12	2012/13	Total
Number of HS1 units recovered	440	474	426	844	380	2 564
Number of C1P units recovered	209	210	142	143	82	786

Annex
(P.4 of 5)

Resultant number of PRH flats recovered from HS1 units	138	155	114	219	115	741 ^{Note}
Resultant number of PRH flats recovered from C1P units	150	138	100	104	63	555 ^{Note}

- (f) *numbers of HOS flats purchased by PRH tenants each year from 2008-2009 to 2012-2013 through the first-hand market, and the second-hand market with/without the land premium settled;*

Please refer to **Appendix I** for the number of HOS flats purchased by PRH tenants on the first-hand market and the secondary market without the premium paid. We have no record on the number of HOS flats with premium paid and purchased by PRH tenants on the open market.

- (g) *numbers of single elderly applications, family applications and QPS applications cancelled by applicants and by the HD respectively during the registration stage each year from 2008-2009 to 2012-2013, broken down by cancellation reasons;*

Please refer to **Appendix II** for the required statistics.

^{Note} PRH flats being converted also involved HS1 & C1P units recovered before April 2008 in partially vacated flats where conversion could only be carried out after the moving out of the remaining tenants.

- (h) *numbers of single elderly applications, family applications and QPS applications cancelled by applicants and by the HD respectively during the vetting stage each year from 2008-2009 to 2012-2013, broken down by cancellation reasons;*

Please refer to **Appendix III** for the required statistics.

- (i) *numbers of single elderly applications, family applications and QPS applications cancelled by applicants and by the HD respectively during the allocation stage each year from 2008-2009 to 2012-2013, broken down by cancellation reasons; and*

Please refer to **Appendix IV** for the required statistics.

- (j) *of the numbers in (g), (h) and (i) above, the ageing analysis of each type of applications (i.e. single elderly applicants, family applicants, QPS applicants).*

The ageing analysis for the numbers in (g), (h) and (i) is not readily available. If such details are indeed required, we would need time to sort it out and may need to procure the service from the computer vendor with extra fees charged to us.

Number of Home Ownership Scheme Flats Purchased by Public Rental Housing tenants from 2008/09 to 2012/13

Year	Home Ownership Scheme flats purchased by Public Rental Housing tenants put up by the Housing Authority through Sale of Surplus Home Ownership Scheme Flats Phase 3 to Phase 6	Home Ownership Scheme/Tenants Purchase Scheme flats purchased by Public Rental Housing tenants through Secondary Market without payment of premium	Total
2008/09	1 984	1 176	3 160
2009/10	482	1 228	1 710
2010/11	1 933	1 500	3 433
2011/12	7	1 181	1 188
2012/13	-	1 328	1 328

Number of Applications Cancelled by Applicants and the Housing Department respectively after they have been Registered on the Waiting List (2008-09 to 2012-13)

Years	Categories	Reasons	Cancellation by Applicants	Cancellation by Housing Department (HD)										Total	
				Supply False Information	Already Housed to rental flats of Hong Kong Housing Society	Already Housed to PRH estates of Hong Kong Housing Authority through other Applications (Note 1)	Failed to Attend an Interview	Occupying Public Housing	Unable to produce Documentary Proof on family position and total family income and asset by the deadline set by HD	Applicant is Deceased	Exceeds Income Limit	Exceeds Net Assets	Others (Note 2)		Sub-total
2008/09	Families Applications		107	1	3	482	2	107	0	10	13	2	268	888	995
	Single Elderly Persons Priority Scheme Applications		14	0	1	49	0	4	1	30	0	0	16	101	115
	Quota & Points System Applications		189	1	117	256	0	56	1	58	25	0	179	693	882
2009/10	Families Applications		90	6	9	452	37	0	1	11	5	0	79	600	690
	Single Elderly Persons Priority Scheme Applications		12	1	1	38	0	3	1	20	0	0	10	74	86
	Quota & Points System Applications		224	6	35	304	1	35	2	113	8	2	75	581	805
2010/11	Families Applications		117	6	13	673	1	61	0	9	5	2	207	977	1094
	Single Elderly Persons Priority Scheme Applications		9	0	4	62	0	1	0	27	0	0	14	108	117
	Quota & Point System Applications		205	5	73	368	1	42	1	102	21	1	135	749	954
2011/12	Families Applications		142	13	34	776	0	82	1	15	4	0	74	999	1141
	Single Elderly Persons Priority Scheme Applications		25	3	4	95	0	6	0	48	0	0	16	172	197
	Quota & Points System Applications		353	9	34	400	1	75	0	103	16	2	104	744	1097
2012/13	Families Applications		157	26	28	479	0	77	1	12	8	0	66	697	854
	Single Elderly Persons Priority Scheme Applications		25	5	3	63	0	5	0	68	1	0	9	154	179
	Quota and Points System Applications		426	13	42	277	0	79	2	136	19	1	83	652	1078

Note 1: Examples include compassionate rehousing, estate transfer exercises, etc.

Note 2: Examples include applicants acquired Small House Grants, became owners or members of various subsidised home ownership schemes flats, etc.

Appendix III

Number of Applicants Cancelled by Applicants and the Housing Department respectively at the Stage of Detailed Vetting (2008-09 to 2012-13)

Years	Categories	Reasons	Cancellation by Applicants	Cancellation by Housing Department (HD)										Total	
				Supply False Information	Already Housed to rental flats of Hong Kong Housing Society	Already Housed to PRH estates of Hong Kong Housing Authority through other Applications (Note 1)	Failed to Attend an Interview	Occupying Public Housing	Unable to produce Documentary Proof on family position and total family income and asset by the deadline set by HD	Applicant is Deceased	Exceeds Income Limit	Exceeds Net Assets	Others (Note 2)		Sub-total
2008/09	Families Applications		578	133	21	121	835	19	128	6	474	16	421	2174	2752
	Single Elderly Persons Priority Scheme Applications		154	21	10	23	211	2	11	63	13	4	60	418	572
	Quota & Points System Applications		76	15	14	27	157	3	40	16	104	2	74	452	528
2009/10	Families Applications		530	201	103	137	656	19	119	4	349	12	368	1968	2498
	Single Elderly Persons Priority Scheme Applications		143	22	8	53	176	5	21	63	21	2	39	410	553
	Quota & Points System Applications		83	20	88	40	142	3	27	35	56	3	27	441	524
2010/11	Families Applications		268	168	45	186	297	10	58	3	166	7	233	1173	1441
	Single Elderly Persons Priority Scheme Applications		125	28	5	52	146	3	16	65	18	0	47	380	505
	Quota & Points System Applications		118	43	32	42	259	2	38	16	88	6	63	589	707
2011/12	Families Applications		328	187	70	207	471	13	74	3	232	8	195	1460	1788
	Single Elderly Persons Priority Scheme Applications		78	18	7	37	90	0	8	44	3	1	36	244	322
	Quota & Points System Applications		64	37	25	23	159	5	31	11	56	6	44	397	461
2012/13	Families Applications		426	187	101	121	901	13	82	2	668	13	330	2418	2844
	Single Elderly Persons Priority Scheme Applications		121	44	3	34	241	2	11	61	44	2	70	512	633
	Quota & Points System Applications		81	28	5	8	241	3	27	12	122	4	58	508	589

Note 1: Examples include compassionate rehousing, estate transfer exercises, etc.

Note 2: Examples include applicants acquired Small House Grants, became owners or members of various subsidised home ownership schemes flats, etc.

Number of Applications Cancelled by Applicants and the Housing Department respectively at the Stage of Allocation (2008-09 to 2012-13)

Years	Categories	Reasons	Cancellation by Applicants	Cancellation by Housing Department (HD)			Total
				Refuse to accept 3 Offers of Tenancy without Acceptable Refusal Reasons	Applicants Do Not Turn Up for Intake Formalities and HD cannot Contact the Applicants by means of Telephone Calls and Letter	Sub-total	
2008/09	Families Applications		0	420	57	477	477
	Single Elderly Persons Priority Scheme Applications		0	185	81	266	266
	Quota and Points System Applications		0	62	33	95	95
2009/10	Families Applications		0	584	39	623	623
	Single Elderly Persons Priority Scheme Applications		0	220	52	272	272
	Quota and Points System Applications		0	95	23	118	118
2010/11	Families Applications		0	374	12	386	386
	Single Elderly Persons Priority Scheme Applications		0	197	31	228	228
	Quota and Point System Applications		0	70	13	83	83
2011/12	Families Applications		0	258	19	277	277
	Single Elderly Persons Priority Scheme Applications		0	146	15	161	161
	Quota and Points System Applications		0	55	6	61	61
2012/13	Families Applications		0	147	4	151	151
	Single Elderly Persons Priority Scheme Applications		0	70	10	80	80
	Quota and Points System Applications		0	29	8	37	37

Supplementary Information Sheets for PAC Members
Public Hearing on
Director of Audit's Report No. 61 (Chapter 3)

Annex	Subject
A	Terms of Reference of Housing Authority
B	Waiting List Applications & Average Waiting Time – Paper for Legislative Council Panel on Housing titled “ Analysis of Housing Situation of Waiting List Applicants as at end-June 2013”
C	Well-off Tenants Policies
D	Under-occupation of PRH Flats
E	Checklist of Cases mentioned in the Audit Report

Terms of Reference

◆ **Housing Authority (HA)**

- To liaise with other bodies concerned with housing in both the public and private sectors and to advise the Chief Executive on matters relating to housing.
- To plan, build and redevelop on its own or jointly with others rental housing estates, subsidised home ownership schemes, interim housing, transit centres, non-residential buildings or premises and such amenities ancillary thereto.
- To manage, maintain and improve the Authority's housing estates and non-residential buildings or premises and such amenities ancillary thereto.

◆ **HA's Standing Committees**

- **Strategic Planning Committee**
 - To review and endorse the corporate plan of the HA and to set strategic guidelines and planning parameters within the policies and objectives set by the Authority for submission to the Authority for approval.
- **Building Committee**
 - To advise the HA on policies related to the implementation of the construction and major improvement, renovation and rehabilitation programmes and to monitor progress on these programmes.
- **Commercial Properties Committee**
 - To advise the HA on policies concerning its commercial, industrial and other non-domestic facilities and to optimise financial return on its investment.
- **Finance Committee**
 - To advise the HA on financial policies and issues arising from Sections 4(3), 4(4) and 12 to 15 of the Housing Ordinance.
- **Subsidised Housing Committee**
 - To advise the HA on policies concerning the allocation, management and maintenance of the Authority's housing estates and ancillary facilities.
- **Tender Committee**
 - To consider and decide on any matters relating to procurement, tenders and quotations (except those for letting of non-domestic properties) exceeding the limits of delegated authority of the Chairman of the Housing Department Tender Board as approved from time to time by the HA.

Waiting List Applications and Average Waiting Time

Legislative Council Panel on Housing

Analysis of Housing Situation of Waiting List Applicants as at end-June 2013

PURPOSE

This paper sets out an analysis of the housing situation of applicants on the Waiting List (WL) for public rental housing (PRH) as at end-June 2013.

BACKGROUND

2. It is the Government's policy objective to provide PRH to low-income families who cannot afford private rental accommodation. Towards this end, the Hong Kong Housing Authority (HA) maintains a WL of PRH applicants. The HA's target is to maintain the Average Waiting Time (AWT) at around three years for general applicants (i.e. family and elderly applicants). The AWT target of around three years is not applicable to non-elderly one-person applicants under the Quota and Points System (QPS)¹.

3. In view of the increasing number of PRH applications and the public's concern over the waiting time of WL applicants (in particular in respect of applicants with a waiting time of more than three years), the HA has analysed the housing situation of WL applicants as at end-June 2013 based on the latest available data. It should be noted that only general applicants are covered in the analysis. The allocation of PRH units to non-elderly one-person applicants under the QPS, as well as other rehousing categories (e.g. transfer of existing tenants, compassionate rehousing and clearance for redevelopment) are not covered in the analysis as the AWT target of around three years is not applicable to them. The analysis is set out in ensuing paragraphs.

¹ The QPS was introduced in September 2005 to rationalise and re-prioritise the allocation of PRH to non-elderly one-person applicants. Under the QPS, the relative priorities for PRH allocation to applicants are determined by their points received, and the AWT target of around three years is not applicable to them.

OVERALL SITUATION

4. As at end-June 2013, there were about 118 700 general applications on the WL for PRH, and about 115 600 non-elderly one-person applications under the QPS. The AWT target of around three years is only applicable to the 118 700 general applicants. As shown in the table below, there has been an increasing trend in the number of PRH applications over the past three years –

	As at end-June 2011	As at end-June 2012	As at end-June 2013
Number of general applications <i>(% increase over previous year)</i>	89 000	106 100 <i>(+19%)</i>	118 700 <i>(+12%)</i>
Number of non-elderly one-person applications under the QPS <i>(% increase over previous year)</i>	66 600	93 500 <i>(+40%)</i>	115 600 <i>(+24%)</i>

AVERAGE WAITING TIME

Methodology in deriving the AWT

5. The HA has in place a consistent and fair mechanism to derive the AWT. Under the established methodology, waiting time refers to the time taken between registration on the WL and first flat offer, excluding any frozen period during the application period (e.g. when the applicant has not yet fulfilled the residence requirement; the applicant has requested to put his/her application on hold pending arrival of family members for family reunion; the applicant is imprisoned, etc). **The AWT for general applicants refers to the average of the waiting time of general applicants housed to PRH in the past 12 months.** This established methodology forms the basis for formulating and maintaining the target of keeping the AWT for general applicants at around three years.

6. It should be noted that some applicants on the WL might have their cases cancelled for different reasons (e.g. failure to meet income eligibility requirements at the detailed vetting stage, failure to attend interviews, etc). To provide flexibility to these applicants whose circumstances might change thereafter, the HA's existing policy is that they may apply for reinstatement of their applications if they fulfill the eligibility criteria again within a specific timeframe². Strictly speaking, the applicant is ineligible during the period from cancellation to reinstatement of application, and hence the period concerned should be excluded in calculating the waiting time. However, due to limitations in the computer system, the HA has not been able to exclude such periods from the calculation of AWT. Going through each individual file to exclude such periods is not practicable given the large number of applications involved.

The AWT

7. As at end-June 2013, the AWT for general applicants was 2.7 years. For elderly one-person applicants, the AWT was 1.5 years. While the HA is still able to maintain the AWT within target, it is increasingly challenging for the HA to attain the target given the increasing number of WL applicants. This is demonstrated by the increasing trend in the AWT over the past three years, as shown in the table below –

	As at end-June 2011	As at end-June 2012	As at end-June 2013
AWT for general applicants	2.2 years	2.7 years	2.7 years
AWT for elderly one-person applicants	1.1 years	1.4 years	1.5 years

² For example, for an application which is cancelled because the applicant's income or asset has exceeded the prescribed limit, if the applicant subsequently becomes eligible again, the applicant can request for reinstatement of the original application not earlier than six months and not later than two years after the first cancellation date of the application.

8. It should be noted that the AWT only shows the average of the waiting time of general applicants housed to PRH in the past 12 months. The HA cannot predict the waiting time of applicants in future, which are affected by a variety of factors such as the number of PRH applicants, the number of units recovered from the PRH tenants which can be used for allocation to WL applicants, the district choices of the WL applicants, etc. However, the increasing number of WL applicants is putting immense pressure on the AWT, especially as the number of new PRH flats to be produced in the next few years is more or less fixed.

WAITING TIME OF APPLICANTS

9. As the AWT is an **average** figure of waiting time for all housed general applicants in the past 12 months, this means that there will inevitably be applicants whose waiting times exceed three years. To examine the distribution of waiting time in detail, the HA has conducted an analysis on two different groups of applicants, namely -

- (a) the 14 300 general applicants housed between July 2012 and June 2013; and
- (b) the 118 700 general applicants still on the WL as at end-June 2013.

The analysis for paragraph 9(a) above provides information complementary to AWT as at end-June 2013, since the analysis has been carried out on the same pool of households (i.e. housed general applicants between July 2012 and June 2013). On paragraph 9(b), the focus of the HA's analysis is on general applicants still on the WL as at end-June 2013 who have yet to receive the first offer three years after registration.

10. It has to be stressed that the established methodology for calculating AWT is an objective and fair basis on which to assess the waiting time of general applicants. The analysis in this paper is only intended to provide additional information as a supplement to the AWT for Members' reference. The information has been compiled by conducting special studies (including manually going through some individual file records) to examine the details of distribution of waiting time as well as to identify some of the major reasons behind those cases with longer waiting time.

General Observations

11. The key result of the HA's analysis is that for general applicants housed during the period under study, 56% of them received their first offer within three years. This is in line with the AWT of 2.7 years for housed general applicants as at end-June 2013. As for general applicants still on the WL as at end-June 2013, 16% have waiting time of three years or above and have not yet received any offer. However, about half (45%) of these applicants have already reached the detailed investigation stage and would be given an offer soon if they are eligible. Details are set out below.

Details

(a) Applicants housed

12. Between July 2012 and June 2013, 14 300 general applicants accepted flat offers and were housed. The distribution of their waiting time by district choice is shown in the table below. Although some of them might have accepted their second or third offer instead of the first offer, in accordance with the established methodology, the waiting time is counted up to the first offer only as the opportunity for housing is provided at that point.

**Distribution of waiting time of general applicants
housed between July 2012 and June 2013**

District choice	Waiting Time	Household size					Total
		1-P	2-P	3-P	4-P	5-P+	
Urban	Less than 1 year	250	220	90	70	30	660
	1 - <2 years	1 600	880	130	120	40	2 700
	2 - <3 years	190	770	100	170	50	1 300
	3 - <4 years	50	1 200	310	140	40	1 700
	4 - <5 years	20	150	620	220	60	1 100
	5 years or above	50	20	100	270	70	510
	Subtotal		2 100	3 200	1 400	980	280
Extended Urban	Less than 1 year	110	80	60	20	10	290
	1 - <2 years	490	230	50	40	30	840
	2 - <3 years	120	270	50	30	40	500
	3 - <4 years	10	970	170	60	50	1 300
	4 - <5 years	<5	140	480	130	60	820
	5 years or above	10	10	140	150	50	360
	Subtotal		750	1 700	960	430	230
New Territories	Less than 1 year	130	150	120	90	40	520
	1 - <2 years	260	100	170	50	30	590
	2 - <3 years	120	250	60	40	20	470
	3 - <4 years	30	250	90	70	20	450
	4 - <5 years	10	10	60	30	10	130
	5 years or above	20	<5	10	10	<5	40
	Subtotal		550	750	490	270	110
Islands	Less than 1 year	0	0	<5	<5	0	<5
	1 - <2 years	10	<5	0	10	0	20
	2 - <3 years	0	20	<5	<5	<5	30
	3 - <4 years	0	<5	<5	<5	0	10
	4 - <5 years	0	0	0	<5	0	<5
	5 years or above	0	0	0	0	0	0
	Subtotal		10	20	10	20	<5
Overall	Less than 1 year	480	460	280	180	70	1 500
	1 - <2 years	2 300	1 200	350	210	100	4 200
	2 - <3 years	430	1 300	210	240	110	2 300
	3 - <4 years	90	2 400	580	270	110	3 400
	4 - <5 years	30	310	1 200	380	120	2 000
	5 years or above	80	30	250	430	120	900
	Total		3 400	5 700	2 800	1 700	620

Note: Figures may not add up to total due to rounding. Values of one thousand or above are rounded to the nearest hundred and values below one thousand are rounded to the nearest ten.

13. The HA has the following observations on the distribution of these housed applicants –

- (a) among the 14 300 housed general applicants, 40% received their first offer within two years and 56% received the first offer within three years. This is consistent with the AWT of 2.7 years for housed general applicants as at end-June 2013. It is also noted that 44% of these housed general applicants (i.e. about 6 300 applicants) received their first offer at or after three years:
- (b) as regards the district choice of these 6 300 housed general applicants who received their first offer at or after three years, about 52% opted for flats in the Urban District, whereas 39% opted for flats in the Extended Urban District. In general, this reflects the popularity of the Urban and the Extended Urban Districts. Hence, applicants opting for flats in these two districts were more likely to have a longer waiting time as compared to those who opted for other districts:
- (c) on the distribution of waiting time of these 6 300 housed general applicants who received their first offer at or after three years, about 54% received the first offer at around three to four years, and about 32% received the first offer at around four to five years. In respect of the household size, about 68% of these 6 300 households were two-person and three-person households opting for flats in the Urban and the Extended Urban Districts: and
- (d) regarding the 900 housed general applicants with waiting time of five years or above, the HA has conducted a special exercise to go through the relevant records manually to find out the major reasons for the long waiting time. The HA's findings show that many of these cases involve special circumstances³ of various kinds, including change of district choice (55%):

³ Some cases involve two or more special circumstances and therefore the percentage breakdown does not add up to the total.

change of household particulars⁴ (43%); refusal to accept housing offer(s) with reasons (40%); applications cancelled due to failure to meet income eligibility requirements in the detailed vetting stage, failure to attend interview and inadequate documentary proof (20%); location preference on social/medical grounds (11%); and QPS cases housed through the Express Flat Allocation Scheme (EFAS)⁵ (8%).

(b) Applicants on the WL

14. Apart from general applicants already housed, the HA has conducted another analysis in respect of the general applicants still on the WL as at end-June 2013 to examine the distribution of their waiting time and to check if the patterns of waiting time are similar to those evident from general applicants that are already housed. However, it should be noted that the waiting time for applicants on the WL is not a particularly useful reference as it only shows the specific situation at a given point in time. The waiting time of successful applicants would eventually be reflected in the AWT when they are housed.

15. Among the 118 700 general applicants on the WL as at end-June 2013, there were about 16% (i.e. about 19 200 applicants) with a waiting time of three years or above and without any flat offer as at end-June 2013. As these applicants have yet to receive any flat offer, the waiting time is counted from the date of registration to end-June 2013, excluding frozen period. The distribution of waiting time of these 19 200 applicants is shown in the table below.

⁴ The HA's experience shows that many applicants requesting for change of household particulars fail to provide supporting documents over extended period of time, thus affecting the processing of their applications and lengthening their waiting time.

⁵ In theory, the waiting time of non-elderly one-person applicants under the QPS should not be counted in the waiting time of the general applicants. Nonetheless, if these applicants are housed through EFAS, the HA has not been able to exclude these cases in the calculation of waiting time of general applicants due to limitations in its computer system. Therefore, the actual waiting time of general applicants should have been shorter.

**Distribution of waiting time of general applicants on the WL
as at end-June 2013 with waiting time
at or above three years and without any flat offer**

District choice	Waiting Time	Household size					Total
		1-P	2-P	3-P	4-P	5-P+	
Urban	3 -<4 years	20	880	3 200	2 000	540	6 600
	4 -<5 years	10	110	1 700	2 300	690	4 800
	5 years or above	<5	<5	70	1 300	410	1 800
	Subtotal	40	1 000	4 900	5 600	1 600	13 200
Extended Urban	3 -<4 years	<5	170	830	900	210	2 100
	4 -<5 years	<5	40	170	860	210	1 300
	5 years or above	<5	10	30	210	100	340
	Subtotal	10	220	1 000	2 000	510	3 700
New Territories	3 -<4 years	10	370	890	600	170	2 000
	4 -<5 years	<5	20	60	100	30	200
	5 years or above	0	<5	10	10	<5	20
	Subtotal	10	390	960	700	200	2 300
Islands	3 -<4 years	0	0	<5	<5	0	<5
	4 -<5 years	0	0	0	<5	0	<5
	5 years or above	0	0	0	0	<5	<5
	Subtotal	0	0	<5	<5	<5	10
Overall	3 -<4 years	30	1 400	4 900	3 500	920	10 800
	4 -<5 years	20	170	1 900	3 300	920	6 300
	5 years or above	<5	10	110	1 500	510	2 100
	Total	50	1 600	6 900	8 300	2 300	19 200

Note: Figures may not add up to total due to rounding. Values of one thousand or above are rounded to the nearest hundred and values below one thousand are rounded to the nearest ten.

16. The HA's analysis of these general applicants on the WL who had waited for three years or above and without any flat offer as at end-June 2013 is as follows –

- (a) details of these 19 200 cases on the WL have been further examined. Results show that about half of them (i.e. about 8 700 cases) have already reached the investigation stage as at

end-June 2013. For applicants reaching investigation stage, detailed vetting would be arranged soon with allocation of units to follow for those found eligible. As regards the remaining 10 500 cases which have not reached the investigation stage, they mainly opt for flats in the Urban and the Extended Urban Districts. As analyzed above, waiting time for these two districts is generally longer than that in other districts:

- (b) the majority (69%) of these 19 200 general applicants have chosen the Urban District, while about 19% of the applicants have chosen the Extended Urban District. With the steady supply of new flats in the Urban and the Extended Urban Districts in the next few years⁶, more flats should be available to meet the demand from these applicants:
- (c) on the distribution of the waiting time, among these 19 200 general applicants, 56% had waiting time of around three to four years, and 33% had waiting time of around four to five years. In terms of household size, about 70% of these 19 200 applicants are three and four person households opting for flats in the Urban and the Extended Urban Districts; and
- (d) the HA has carried out a special exercise to study those 2 100 cases on the WL with a waiting time of five years or above and without any flat offer as at end-June 2013. Results show that many of these cases involve special circumstances of various kinds, including change of household particulars (33%); refusal to accept housing offer(s) with reasons (13%), as well as other circumstances such as cancellation periods, location preference on social/medical grounds and applications for Green Form Certificate (GFC) for purchasing Home Ownership Scheme (HOS) units⁷ (8%).

⁶ According to the Public Housing Construction Programme as at June 2013, there will be 23 300 and 15 500 newly completed flats available for allocation in the Urban and the Extended Urban Districts respectively in 2013/14 to 2015/16.

⁷ PRH applicants whose eligibility have been established after final vetting can apply for GFC to buy HOS flats when they are on sale or HOS flats with premium not yet paid on the HOS secondary market. When the PRH applicants are holding a valid GFC, they will not be allocated PRH units. Nonetheless, their waiting time for PRH would still be counted while they are holding a valid GFC.

Frozen time

17. As a number of applicants have experienced frozen time while they are awaiting allocation of PRH flats, the HA has also conducted an analysis on the frozen applications. An application can be frozen for various reasons, for example, when the applicant has yet to fulfill the seven-year residence requirement⁸ for flat allocation; the applicant has requested to put on hold his application pending provision of divorce documents; the applicant is in jail, or the applicant who is currently a member of a PRH household was evicted from PRH units due to previous misdeeds under the Marking Scheme or rent in arrears.

18. In fact, at any one point in time, there are applications which are frozen. For example, as at end-June 2013, among the 118 700 general applications on the WL, some 5 830 (5%) applications were frozen. Reasons are set out in the following table –

Reason	Frozen cases as at end-June 2013
Residence Requirement	5 590
Request by applicant (e.g. pending provision of divorce document)	130
Institutional Care (e.g. imprisonment)	60
In relation to misdeed in previous PRH tenancy (e.g. rent in arrears and marking scheme)	60
Total	5 830

Note: Figures do not add up to total due to rounding. Values are rounded to the nearest ten.

19. For these cases, applicants are allowed to remain on the WL even though their applications are frozen. This would allow them to be registered earlier and hence have higher priority in the queue, although they

⁸ To facilitate the integration of new arrivals into society of Hong Kong, the HA has reviewed and relaxed the seven-year residence rule on several occasions in the past. At present, eligible WL applicants would have already fulfilled the seven-year residence rule when half of the family members have lived in Hong Kong for seven years at the time of PRH allocation. No matter whether the main applicant can satisfy the residence rule, if at least half of the members of the applicant family satisfy the seven-year residence rule at the time of allocation, a PRH flat can be allocated to them when their turn is due. All members under the age of 18 are deemed to have satisfied the seven-year residence rule if either they have established the birth status as permanent residents in Hong Kong or, regardless of their place of birth, one of their parents has lived in Hong Kong for seven years. The current arrangement can facilitate the integration of new arrivals into society of Hong Kong.

have not yet fulfilled all criteria for flat allocation. The applicants are likely to perceive the frozen time as part of their waiting time, while in reality they are not qualified for allocation of PRH units or they have requested to withhold processing their application during that period.

Overall observations on the waiting time of applicants

20. The HA's analysis shows that for applicants already housed, most of those with longer waiting times are two or three persons households opting for the Urban or the Extended Urban Districts. Similarly, for applicants still on the WL, most of those with longer waiting times are three or four persons households opting for the Urban or the Extended Urban Districts. Those with particularly long waiting times often involve special circumstances such as cancellation periods (during which they are ineligible for housing), change of household particulars, etc.

21. It is noteworthy that for the 14 300 general applicants housed during the period under study, 44% of them (i.e. about 6 300 applicants) received their first offer at or after three years. There were also about 19 200 general applicants still on the WL with a waiting time of three years or above and without any flat offer as at end-June 2013. These analysis results show the difficulties for the HA to maintain the AWT target of around three years for general applicants.

SUPPLY OF FLATS

22. The HA will strive to address the demand for PRH flats through new production and recovery of PRH flats. Based on the HA's experience, there is a net gain of an average of about 7 000 flats⁹ recovered from surrender of flats by sitting tenants as well as enforcement actions against abuse of PRH resources, which could be made available for allocation to WL applicants every year.

⁹ Excluding those flats recovered from PRH transferees. As PRH flats have to be offered to transferees, there will not be net gain of flats.

New production

23. According to the Public Housing Construction Programme as at June 2013, the forecast public housing production from 2013/14 to 2017/18 is summarized in the table below -

District	Expected number of units and year of completion				
	2013/14	2014/15	2015/16	2016/17	2017/18
Urban	9 700 (69%)	3 900 (31%)	9 800 (48%)	10 500 (56%)	9 100 (57%)
Extended Urban	4 400 (31%)	3 000 (24%)	8 100 (40%)	3 600 (19%)	6 900 (43%)
New Territories	-	5 800 (45%)	2 600 (13%)	4 700 (25%)	-
Total	14 100 (100%)	12 700 (100%)	20 500 (100%)	18 800 (100%)	16 000 (100%)

Note: Figures may not add up to total due to rounding.

24. As shown from the above table, there will be a steady supply of newly completed flats in the Urban and the Extended Urban Districts. Among the new production from 2013/14 to 2016/17, about 19% would be one/two-person units, 25% would be two/three-person units, 39% would be one-bedroom units (for three to four persons) and 16% would be two-bedroom units (for four persons or above). The new supply should help meet the demand for PRH in the Urban and the Extended Urban Districts and for two to four persons households.

Under-occupation of PRH flats

25. As at end-June 2013, using the existing allocation standards¹⁰, there were 55 500 under-occupation (UO) cases in PRH. The HA encourages under-occupation households to transfer to smaller units by offering flats in the same estate or in the same District Council (DC) district.

¹⁰ The current standards are 1-person>25m², 2-person>35m², 3-person>44m², 4-person>56m², 5-person>62m² and 6-person>71m².

Annex B
(P.14 of 16)

Domestic Removal Allowance and an opportunity for transfer to new estates. Among the 55 500 UO households, about 1 760 were the prioritised UO (PUO) cases with living density exceeding 34 m² per person and without elderly or disabled family members.

26. The HA has recently reviewed the UO policy and endorsed a series of revised measures which took effect from 1 October 2013. PUO thresholds are redefined as households with living space exceeding the prescribed Internal Floor Area according to family size and without elderly and disabled members. The revised PUO standards are shown in the table below –

1-person	>30m ²
2-person	>42m ²
3-person	>53m ²
4-person	>67m ²
5-person	>74m ²
6-person	>85m ²

As an enhancement measure, those UO households with disabled members or elderly members aged 70 or above are excluded from the UO list. PUO households will be given a maximum of three offers to transfer to smaller units¹¹. They will be offered incentives including housing offers in the same estate or in the same DC district, Domestic Removal Allowance upon transfer to smaller flats and opportunity for transfer to new estates, which are also provided to other UO cases. For those who refuse all the three offers unreasonably, a Notice-to-quit will be served. Besides, non-PUO households¹² will continue to be encouraged to opt for voluntary transfer to suit their needs.

¹¹ Newly identified PUOs will be given a maximum of three housing offers. As regards the existing PUO households, to minimize the impact on them, they would continue to be provided with a maximum of four housing offers.

¹² Non-PUO households refer to all households with living space exceeding the prescribed UO standards other than those PUO households (including those with disabled members or elderly members aged 70 or above and excluded from the UO list).

27. From October 2010 up to end-June 2013, 2 770 UO households have been relocated to smaller units, and another 4 290 UO households moved out of PRH and surrendered their units. According to the HA's experience, units recovered were mostly one-bedroom units suitable for re-allocation to three to four-person households. This should help increase the supply of PRH flats, especially for households of three to four persons.

Tackling abuse of PRH

28. The Housing Department (HD) carries out rigorous investigations into occupancy-related cases randomly selected from PRH tenancies and suspected abuse cases referred by frontline management and the public. In 2012/13, HD proactively investigated some 8 700 cases, and some 490 PRH flats were recovered on grounds of tenancy abuse. In addition, to detect suspected non-occupation cases, HD completed an 18-month "Taking Water Meter Readings Operation" in all PRH flats in July 2012. HD has conducted checking or rigorous investigation into some 9 400 zero or low water consumption cases under this exercise. As at end-June 2013, some 1 200 PRH flats have been recovered due to this initiative. In view of its effectiveness, a second phase operation will be launched shortly.

WAY FORWARD

29. The HA will continue to keep in view the number of applications on the WL and maintain the objective to provide PRH to low-income families who cannot afford private rental accommodation, with a target of maintaining the AWT at around three years for general applicants on the WL.

30. Despite our efforts, the increasing number of WL applicants would eventually put pressure on the AWT, especially when the supply of new PRH flats in the coming few years is almost fixed. In this connection, the HA will step up its efforts against abuse of PRH resources to recover flats for re-allocation to those in greater need. The Government will also work with the HA to identify more land for building PRH flats. To meet the WL demand, the community as a whole would also need to work together and

make hard choices so as to maximize the use of sites to increase the PRH production.

ADVICE SOUGHT

31. Members are invited to note this paper for information.

Transport and Housing Bureau
October 2013

Well-off Tenants Policies

Background

- Since 1 April 1987, the Housing Authority (HA) has been implementing the **Housing Subsidy Policy (HSP)** with a view to reducing the housing subsidy to households whose financial conditions have been considerably improved after moving into public rental housing (PRH). HA further endorsed in April 1996 the implementation of the **Policy on Safeguarding Rational Allocation of Public Housing Resources (SRA)** whereby household income and net assets value are adopted as the two criteria for determining PRH households' eligibility to continue to receive public housing subsidy. HSP and SRA are commonly known as "Well-off Tenants Policies".

HSP

- Under HSP, households having lived in PRH flats for ten years or more are required to declare income every two years. Those with household income equivalent to two to three times of the Waiting List Income Limits (WLILs) are required to pay 1.5 times net rent plus rates. Those with household income exceeding 3 times of the WLILs or opt not to declare income are required to pay double net rent plus rates.

SRA

- Under SRA, households required to pay double net rent plus rates have to declare assets biennially. Households with net assets value exceeding the Net Assets Limits (NALs) or opt not to declare assets are required to vacate their PRH flats. Those households required to vacate their PRH

flats but have a temporary housing need may apply for a fixed-term licence to stay put in their PRH flats for a period of not more than 12 months, during which licence fee equivalent to the double net rent plus rates or market rent (whichever is the higher) will be charged.

Relevant Statistics on the “Well-off Tenants Policies”

- Appendix A - Statistics on “Well-off Tenants”^{Note} as at 1 April from 2008 to 2013
- Appendix B - Number of flats recovered from “Well-off Tenants” for the past five years
- Appendix C - Assets required to be declared under SRA
- Appendix D - Subsidy Income Limits and Subsidy Assets Limits

Note “Well-off Tenants” denotes those paying additional rent including 1.5 times net rent plus rates, double net rent plus rates and market rent.

Statistics on “Well-off Tenants” as at 1 April from 2008 to 2013

Year	No. of Households Required to Declare Income Biennially Note 1	No. of Households Paying ^{Note 2}			Total No. of Households Paying Additional Rent
		1.5 Times Net Rent plus Rates	Double Net Rent plus Rates	Market Rent	
2008/09	170 000	24 600	4 700	120	29 420
2009/10	170 000	26 300	5 700	140	32 140
2010/11	190 000	24 900	4 700	100	29 700
2011/12	180 000	25 100	4 400	130	29 630
2012/13	220 000	22 700	3 600	80	26 380
2013/14	200 000	21 500	3 200	80	24 780

Note 1 : PRH households who having lived in PRH for ten years or more are required to declare household income biennially.

Note 2 : Those with income/assets exceeding the prescribed limits will be required to pay rent at the corresponding levels w.e.f. April of the following year. These households can apply for rent reversion if their income falls below the corresponding SILs for three consecutive months or in permanent nature due to deletion/death of income-earning members, etc.

No. of Flats Recovered from “Well-off Tenants”

Grounds for Flat Recovery	No. of Flats Recovered from “Well-off Tenants”				
	2008/09	2009/10	2010/11	2011/12	2012/13
SRA	100	76	114	81	46
Other than SRA	436	286	658	237	215
Total	536	362	772	318	261

- An average of 83 flats were recovered per annum under SRA
- In the past five years, a total of 2 249 flats (with an average of 450 flats per year) were recovered from well-off tenants on various grounds

Assets Required to be Declared under SRA

Types of Assets

1. Land
2. Landed Properties
3. Vehicles
4. Taxi and Public Light Bus Licences (including vehicles)
5. Investments
6. Bank Deposits and Cash
7. Business Undertakings



**NET ASSETS LIMITS FOR
PUBLIC HOUSING TENANTS / INTERIM HOUSING LICENSEES
(Effective from 1 April 2013)**

Ordinary households

<u>Household Size</u>	<u>Income Limits (\$) (3 times 2013/2014 Waiting List Income Limits)</u>	<u>Net Assets Limits (\$) (84 times 2013/2014 Waiting List Income Limits)</u>
1	26,640	750,000
2	41,250	1,160,000
3	54,930	1,540,000
4	66,420	1,860,000
5	76,080	2,140,000
6	85,200	2,390,000
7	94,890	2,660,000
8	101,430	2,850,000
9	113,550	3,180,000
10+	119,220	3,340,000

Small households with *All Members* aged over 55

<u>Household Size</u>	<u>Income Limits (\$) (3 times 2013/2014 Waiting List Income Limits)</u>	<u>Net Assets Limits (\$) (84 times 2013/2014 Waiting List Income Limits)</u>
1	26,640	1,860,000
2	41,250	1,860,000
3	54,930	1,860,000

Notes :

- (a) The Net Assets Limits for a 4-person household applies to small households at sizes of 1 to 3 persons if all their members aged over 55.
- (b) Compensation for loss of earning power due to injuries sustained at work, traffic and other accidents may be deducted from individual assets value.
- (c) In accordance with the Policy on Safeguarding Rational Allocation of Public Housing Resources, double rent paying households with both household income and net assets value exceeding the prescribed limits or those choosing not to declare household assets (including those failing to provide all the required information) will be required to vacate the public housing flats^{Note} they are occupying. In this connection, the Housing Authority shall terminate the tenancies/occupation licences in respect of the flats they are occupying on 31.3.2014 by the service of notice to quit under section 19(1)(b) of the Housing Ordinance. However, if they have difficulties and are unable to vacate on specified date, they may apply for temporary stay at their flats. The Housing Department may grant them on need basis a "Fixed Term Licence" for occupying the flats for a maximum duration up to 31.3.2015. The monthly licence fee payable will be equivalent to the double net rent/licence fee plus rates or market rent/licence fee level (whichever is the higher) of the flats they are occupying. During the term of the licence, if the income/net assets values of the households fall below the prevailing income/net assets limits for a sustained period of three months, the licensees may apply for grant of tenancy/occupation licence and payment of rent/licence fee at an appropriate level.

Note : The term "Public Housing Flats" includes Interim Housing Units

HD857 (Rev. 3/2013)

Under-occupation of PRH Flats

The Housing Authority (HA) adopted a phased approach to tackle the under-occupation (UO)¹ and defined the Most Serious UO (now renamed as Prioritised UO) standard in 2007. As at 2007, there were about 35 500 UO households according to records in HA. Over the past 6 years, HA has solved about 21 000 UO cases, indicating an average of about 3 700 cases resolved per year. However, at the same time, about 40 000 cases became under-occupied households as a result of having their family members moved out or passed away. This accounted for the accumulation of about 54 500 cases in March 2013.

Out of the 21 000 resolved UO cases, 5 500 cases were resolved through transfer to smaller units. Another 9 000 cases have their flats recovered through purchase of a flat under the Home Ownership Scheme/Tenants Purchase Scheme, voluntary surrender, etc. Of the remaining 6 500 cases, they were resolved through addition of family members, becoming disabled or attaining the age 60. Upon the implementation of the revised under-occupation threshold², households with disabled members or elderly members aged 70 or above are excluded from the under-occupied transfer list

¹ The prevailing UO standards-

Family Size (Person)	1	2	3	4	5	6
UO Standard – Internal Floor Area (IFA) exceeding (m²)	25	35	44	56	62	71

² Revised PUO threshold w.e.f. 1 October 2013

Family Size (Person)	1	2	3	4	5	6
PUO Thresholds IFA exceeding(m²)	30	42	53	67	74	85

while all non-PUO households, including those with elderly members aged 60-69 are not required to transfer until the next policy review in 2016.

**An Analysis on Resolved Under-occupation (UO) Cases
between August 2007 and March 2013**

	Resolved UO Cases					Average Per Year
	Transfer to Small Flats (a)	Other Cases of Flats Recovery (e.g. Purchase of HOS/TPS, Self-NTQ, Transfer, etc.) (b)	Flat Recovery Cases (c) = (a) + (b)	No. of Cases become Non-PUO/Non UO (e.g. addition, become disabled or elderly) (d)	Total (e) = (c) + (d)	
Total	5 500 (PUO: 3 000 Non-PUO: 2 500)	9 000	14 500 (PUO: 3 600 Non-PUO: 10 900)	6 500	21 000 (PUO: 5 590 Non-PUO: 15 410)	3 700
Average	970	1 580	2 550	1 150	3 700	3 700

Note : There were some 500 transfer cases resolved on average in 2005 and 2006

Checklist of Cases mentioned in the Audit Report

(as at 25.11.2013)

Irregularities Identified	Case Detail	Progress
Case 1 (pg. 30)	A QPS applicant was already housed through Compassionate Rehousing in July 2010 but the record was not deleted from the records of the WL. The WL application was subsequently cancelled in July 2013.	A trigger mechanism has already been in place in our computer system to avoid duplicated allocation for cases housed through other channels. We will, subject to resources, conduct regular checks to ensure that follow-up actions are promptly taken on WL applicants who have been housed through other channels
Case 2 (pg. 38)	The vetting officer did not give adequate advice to the new G-No. applicant on the necessary information/documents to be provided, resulting in the resubmission being returned again	We will strive to provide clearer advice to applicants To make the application more user friendly, we are improving the application forms, the Information for Applicants, and the video clip on PRH application for implementation in early 2014.
Case 3 (pg. 39)	The original vetting officer repeatedly requested the new applicant to provide the valuation report of a property he owned in the Mainland but he failed to do so. The applicant later submitted a new application form but the Mainland property was not declared. Due to inadequate	We will remind applicants to refer to previous return letters when resubmitting applications Reminders to advise applicants to refer to previous return letters will be incorporated in the Information for Applicants and the video clip on PRH application.

Irregularities Identified	Case Detail	Progress
	<p>coordination with the former vetting officer, another vetting officer processing the application registered the application on the WL without clarifying the updated status of the Mainland property concerned. In-depth investigation to this case is being conducted.</p>	
<p>Case 4 (pg. 41)</p>	<p>A family member of a G.-No application passed away on 12.10.2011. Before updating of the deceased person was effected in the computer system in February 2012, a PRH flat in a to-be-completed estate had already been provisionally allocated to the applicant in December 2011. Without timely updated action, the applicant submitted the intake declaration form in May 2012 with a forged signature of the deceased person and was housed to a larger PRH flat than he was entitled. The tenant was subsequently convicted and the PRH flat was recovered.</p>	<p>We will take measures to ensure that names of the deceased persons are promptly deleted from the WL applications for PRH.</p>

Irregularities Identified	Case Detail	Progress
Case 5 (pg. 125)	A PRH tenancy with 5 members wrongly input with an indicator of “EPS” in the DTMS leading to omission from the required HSP biennial declaration	Indicator already removed in July 2013
Case 6 (pg. 126)	A PRH tenancy with 4 members ranging with ages from 26 to 63 were input with an indicator of “SHT-Sharing Tenancy” leading to omission from the required HSP biennial declaration	Indicator already removed in July 2013
Case 7 (pg. 76)	More than 4 housing offers given to an MS UO household	One of the offers was counted as reasonable refusal and Regional Chief Manager had granted an extra housing offer to the tenant who eventually accepted a small flat with tenancy commenced in mid August 2013.
Case 8 (pg. 78)	An UO household with 2 family members occupying two flats	Addition of an adult daughter on 24.10.2013. The 3-person family is no longer a Prioritized UO household.
Case 9 (pg. 85)	A WL applicant applied for PRH in March 2009 only declared bank deposit / cash in hand of \$2 000 and \$960 respectively. The applicant and his wife	The case was caused by the applicant’s deliberate act in providing false information. As explained in our previous response to Audit, HD puts more

Irregularities Identified	Case Detail	Progress
	<p>were later found to have concealed substantial amount of deposits, four bank accounts, and insurance policy asset which exceeded the asset limit at the time of application. The application was cancelled ultimately and the case was referred Prosecutions Section for action in May 2012.</p>	<p>emphasis on the detailed vetting before allocation. Therefore, in the preliminary vetting stage, we require supporting documents on major declarable assets only. There are only certain types of assets for which we do not require supporting documents, e.g. bank deposits, shares in listed companies etc. However, applicants need to make declarations on these items at the time of application. During the detailed investigation stage, supporting documents on these items are required for vetting and if we find discrepancy on the value of these items as at the time of application, we will cancel the application on the basis of false information and consider prosecution. Therefore, the present system has struck an appropriate balance between asking the applicant to submit too many supporting documents at application stage hence delaying the application process on the one hand, and guarding against false submission of information on the other</p> <p>To avoid possible mistaken declaration by applicants, we have issued a reminder to advise applicants to declare the exact amount of bank deposit since September 2013.</p>

Irregularities Identified	Case Detail	Progress
Case 10 (pg. 100)	A member of a PRH tenancy passed away in 1996. OP declaration was made by his son in 2000 and BI was made in 2010. Not until 2012 that the son revealed the death of his father to the estate office that deletion could be made	The management staff has already taken timely action to delete the deceased person once it was discovered

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九龍長沙灣道三〇三號
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20 December 2013

(Urgent by fax: 2840 0716)

Public Accounts Committee
Legislative Council
Legislative Council Complex,
1 Legislative Council Road
Central, Hong Kong
(Attn: Ms Mary SO)

Dear Ms SO,

Public Account Committee
Consideration of Chapter 5 of the Director of Audit's Report No. 61
Protection of country parks and special areas

I refer to your letter under reference dated 11 December 2013.

I attach herewith bilingual responses of this department to the written questions raised in your letter.

Yours sincerely,

(Joseph SHAM)
for Director of Agriculture, Fisheries & Conservation

Encl.

c.c Secretary for Financial Services and the Treasury (fax no. 2147 5239)
Director of Audit (fax no. 2583 9063)

覆函請寄交「漁農自然護理署署長」
Please address all replies to Director of Agriculture, Fisheries & Conservation

Chapter 5 of the Director of Audit's Report No. 61
"Protection of country parks and special areas"

AFCD's response to the written questions
from Public Accounts Committee

Patrolling and law enforcement

Patrolling practices

- (a) ***Whether the Agriculture, Fisheries and Conservation Department ("AFCD") would put in place practicable target frequencies for patrolling routine foot beats, instead of treating the existing target frequencies for patrolling routine foot beats as a rough guideline for supervisors to plan patrolling duties for frontline staff (paragraph 2.10(a) of the Audit Report refers)?***

The Agriculture, Fisheries and Conservation Department (AFCD) is reviewing the current routine foot beats for all country parks, including the beat length, coverage, check points and target frequency, taking into account the objectives and operational need of the patrol beats under different situations. After the review has been completed, a realistic and achievable "target frequency" for all routine foot beats will be set for supervisors to plan patrolling duties for frontline staff and to keep track on the actual patrol frequency. We will establish a proper record keeping system to monitor the frequency of patrols conducted, and where necessary, adjustments made to the targets as well as the justifications for the adjustments.

- (b) ***What steps would be taken by the AFCD to improve its patrolling practices to address the problems identified in paragraphs 2.12 and 2.16 to 2.18 of the Audit Report, namely, coverage of patrol routes not regularly reviewed, few check points are set for patrol routes, and country park enclaves ("enclaves") not adequately inspected?***

AFCD is reviewing the current routine foot beats for all country parks to ensure that all the important check points will be appropriately covered. In general, the setting of check point for each foot beat is based on a number of criteria. For instance, black spots of irregularities, major recreational facilities, emergency telephone booths, "enclaves" and way-marks will also be considered as check points. District

supervisors will review regularly each foot beat's check points by adding, deleting or adjusting the locations of check points, if necessary. AFCD will monitor closely the effectiveness of the patrolling on new foot beats adopted. In parallel, a new guideline for devising and monitoring the foot beats will be set as soon as practicable for district supervisors' reference.

- (c) *Whether consideration would be given to changing the approach of conducting inspection visits to enclaves, which mainly involved private land, by advising patrol staff not to inspect enclaves only if there are difficulties in entering the enclaves, such as the enclaves are entirely fenced off or the villagers living in the enclaves intend to unleash dogs to attack patrol staff. According to paragraph 2.19(a) of the Audit Report, AFCD staff should avoid trespassing into enclaves as far as possible due to possible legal implications and potential conflicts with the villagers as most enclaves by nature involved private land?*

Enclaves could be inspected either by on-site visits along existing footpaths or from a vantage point nearby in order to spot any irregularities such as large scale excavation, site clearance and tree felling, formation of access road, presence of excavators or bulldozers, etc, occurred at the subject sites. Although trespassing into private land within enclaves should be avoided as far as possible, observations and inspections could still be made at nearby government land or vantage points.

- (d) *Whether the AFCD considers it adequate to take photographs of enclaves at vantage points, to ensure that there are no incompatible developments in the enclaves. According to paragraph 2.19(c) of the Audit Report, although some of the enclaves were not set as check points for inspection, they were inspected along the patrol routes as far as possible and photo records were taken at vantage points without entering into the enclaves?*

Under certain circumstances where inspection of enclaves cannot be made along existing footpaths, observations can be made at vantage points nearby. Where necessary, the observations could be made with the aid of binoculars. Photographs of the enclave would be taken for record purpose and for future reference.

- (e) ***Whether remoteness and low accessibility should be used as the criteria for not conducting routine patrols to enclaves (paragraph 2.24(c) of the Audit Report refers), having regard to the fact that illegal developments, such as erection of columbaria, have been found in remote government land; and what are the objective standards for determining that an enclave is remote and the accessibility is low?***

From a risk-based management perspective, AFCD prioritizes inspection resources to enclaves that are considered under higher risks of unauthorized activities. Enclaves that are remote and low in accessibility are generally considered having relatively lower risks. When an enclave is not accessible through existing roads, footpaths or piers, AFCD would consider it remote with low accessibility. Such enclaves are inspected with a lower frequency. To strengthen the inspection at these remote enclaves, AFCD will consider conducting inspection on a helicopter or a boat and by making use of the aerial photographs provided by the Lands Department.

- (f) ***How were the ad hoc inspections to the 10 enclaves, currently not covered by any routine foot beats, carried out; what was the time interval for conducting such ad hoc inspections; and whether consideration would be given to adopting means, other than patrolling on foot, to protect enclaves against activities which might not be compatible with the natural environment, say, by making use of the aerial photographs of the enclaves taken by the Government Flying Service at different time periods to check if there are changes made to the site condition of the enclaves?***

For the 10 enclaves that are not covered by the existing foot beats, inspections were conducted with a lower frequency. The observations were conducted by on-site visits, at vantage points or from a boat. In 2012, the frequencies of inspection conducted by the AFCD on these enclaves were between one and five times. Such frequencies are constantly under reviewed. To strengthen the inspection at these enclaves, AFCD will review the existing foot beats to cover these enclaves as far as possible. Where necessary, AFCD will conduct inspection on a helicopter or a boat and by making use of the aerial photographs provided by the Lands Department.

- (g) ***What are the reasons for the downtime of the Global Positioning System ("GPS") function of the Personal Data Assistants ("PDAs") (from April to July 2013) provided to patrol staff; and what steps would be taken to minimize the occurrence of such downtime?***

The main reason for the downtime of the GPS function of the PDAs was due to map generation problem of the server which caused no GPS map being shown on web application. Such problem was fixed after the programme in the server was modified in August 2013. To minimize the occurrence of such downtime, the system will be upgraded in the next enhancement exercise to ensure that any malfunction of the server can be detected as early as possible and remedial action can be taken immediately. However, the problem due to poor GPS signal in certain locations in the country parks is an intrinsic limitation of the hardware that cannot be fully resolved.

- (h) ***When was the GPS function of the PDAs provided to patrol staff last updated?***

The GPS function was last updated in August 2013 and will be updated as and when necessary.

Regulation of camping

- (i) ***Whether consideration would be given to increasing the existing provision of 40 designated campsites in country parks; if so, whether consideration would be given to providing/improving camping facilities, such as water and electricity supplies, in the country parks concerned?***

Campsites are designated in country parks for facilitating the public to experience the natural environment in countryside and supporting the long-distance hikers for stopover purposes. Relatively more campsites are provided along long-distance hiking trails such as the MacLehose Trail and Lantau Trail. AFCD has taken into account various factors (such as terrain, accessibility, water supply, scenic value, potential of fire hazard and impact of the camping activity on the natural environment and neighbouring villages) in assessing the suitability of designating campsites in country parks. In general, camping facilities include barbeque pits, cooking stoves, benches and tables, cloth lines,

pavilions, toilets and water source. In some campsites, bathing facilities are provided for the general public. AFCD will continue to frequently review the facilities provided in existing campsites to meet the needs of country park visitors. Furthermore, AFCD will further explore the feasibility of providing new designated campsites in suitable locations in country parks.

Hill fire prevention

- (j) ***What are the reasons for the AFCD to continue adopting manual surveillance of hill fire, despite the fact that some Mainland/overseas cities have adopted automated fire surveillance systems?***

A wildfire detection system using infrared thermal remote sensing technology had been tested in Tai Lam Country Park in 2010. The performance of the system was found limited by such factors as unstable connectivity of mobile telecommunication networks, unstable power supply in the area, and susceptibility to interference from ambient environmental conditions, such as the light sources in the populated area (e.g. village areas) near country parks. Given the limitation, it was considered that the technology was not yet feasible to substitute the manual surveillance of hill fire.

- (k) ***Whether the AFCD had conducted further test on the use of infrared thermal remote sensing technology for surveillance of hill fire after 2010; and whether consideration would be given to testing other automated fire surveillance systems?***

AFCD has not conducted further test on use of infrared thermal sensing technology for surveillance of hill fire after 2010. In view of the possible advancement in technology, AFCD will gather updated information on the development and application of relevant automated hill fire surveillance technology and explore the feasibility of application in Country Parks.

- (l) ***Whether the AFCD would step up measures to minimize fire hazard in country parks, if so, what these measures are?***

According to AFCD's record, the number of hill fire incidents in Country Parks/Special Areas has greatly reduced by 65% from 51 in

2008-09 to 18 in 2012-13. The current measures undertaken by AFCD in suppressing hill fire are considered effective and efficient. AFCD will continue the current practice in hill fire prevention. In response to Audit's recommendation to prohibit smoking in Country Parks/Special Areas to further minimize fire hazards, AFCD will examine the desirability and feasibility of prohibiting smoking or restrict smoking only to designated areas in Country Parks/Special Areas. Tobacco Control Officer of Department of Health would be consulted if necessary.

Regulating incompatible developments

- (m) ***What are the objective criteria in assessing whether the 54 enclaves, which are currently not protected by the Country Parks Ordinance (Cap. 208), should either be (i) incorporated into country parks or (ii) have their proper uses determined through statutory planning (i.e. through the preparation of the Development Permission Area Plans and subsequently the Outline Zoning Plans); and which one of the two aforesaid protective measures or other protective measures is considered more suitable by the Administration for these enclaves in terms of striking a balance between development and nature conservation?***

To determine whether an enclave is suitable for incorporation into a country park or to decide their proper uses through statutory planning, the Government will carry out assessments on the enclaves having regard to their situations. Relevant factors such as conservation values, landscape and aesthetic values, geographical locations, existing scale of human settlement and development pressures are taken into consideration.

- (n) ***What is the expected timeframe for the return of the 18 hectares of land in the Clear Water Bay Country Park to the AFCD; and what is the Administration's plan on the use of the returned land?***

The Environmental Protection Department estimates that the existing South East New Territories (SENT) Landfill will be closed in 2015. Of the 18 hectares of country park land, about 9 hectares of land, which is being used as the SENT Landfill, can be returned to the AFCD after completion of about two years of restoration following the closure of the

landfill. The remaining some 9 hectares of land is located within the proposed landfill extension area and the project is subject to LegCo's approval of the funding application. If the funding application is approved, the landfill extension will operate for about six years. After completion of the operation, the country park area within the extension site can be returned to AFCD following completion of about two years of restoration.

Publicity and educational activities

- (o) ***Whether the AFCD had conducted any study to find out why the Internet hit rate of the education kit for use by secondary schools, launched by the AFCD in October 2010 to help teachers promote nature conservation at schools, had steadily declined; and if so, what the reasons are?***

The education kit for secondary school contains learning and teaching materials such as teaching guides, photographic field guides, maps, worksheets and model answers. With the aid of the kit, teachers can guide their students to prepare for a fruitful visit to country parks and country park visitor centres. All of the aforementioned teaching materials can be downloaded from the web-based education kit. If the teachers have downloaded all the teaching materials, they do not need to re-visit the website. Thus, the decline in hit rate is expected.

To further encourage and facilitate outdoor learning expedition in Country Parks, AFCD has developed a series of school education programmes to be conducted in country park visitor centres. We will also update the worksheets in the education kit according to the education programmes in the country parks visitor centres to facilitate teachers and students to explore the natural wonders in country parks and enjoy their learning experience.

香港特別行政區政府
消防處

香港九龍尖沙咀東部康莊道一號
消防總部大廈



APPENDIX 32

**FIRE SERVICES DEPARTMENT
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION**

FIRE SERVICES HEADQUARTERS BUILDING,
NO. 1 HONG CHONG ROAD,
TSIM SHA TSUI EAST, KOWLOON,
HONG KONG.

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20 December 2013

Ms Mary SO
Clerk to Public Account Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms SO,

**Public Account Committee
Consideration of Chapter 6 of the Director of Audit's Report No. 61
Fire protection and prevention work of the Fire Services Department**

Thank you for your letter dated 12 December 2013. This Department's responses to the questions raised are set out in the Appendix to facilitate the Committee's consideration of the captioned Chapter of the Audit Report. The Chinese translation of our responses will be provided to you shortly.

If you have any questions, please feel free to contact Mr. Robert LAU, our Assistant Director (Licensing & Certification), at 2733 7744.


(CHAN Chor-kam)
Director of Fire Services

c.c. Secretary for Financial Services and the Treasury (Fax : 2147 5239)
Secretary for Security (Fax : 2877 0636)
Director of Audit (Fax : 2583 9063)

Encl.

Public Accounts Committee
Consideration of Chapter 6 of the Director of Audit's Report No. 61
Fire protection and prevention work of the Fire Services Department

Response to Questions

<i>Monitoring fire service installations and equipment (FSIs) in buildings</i>	
<i>(a)</i>	<p><i>What is the progress of updating and verifying the FSI data in the Integrated Licensing, Fire Safety and Prosecution System (LIFIPS) launched by the Fire Services Department (FSD) in April 2012 to better support its fire protection work</i></p>
	<p>Considering the large volume of paper-based building FSI information (FS 21) and Certificates of Fire Service Installations and Equipment (FS 251) that have to be converted into digital data, inputted into the LIFIPS and verified, extra temporary staff have been employed to carry out the work.</p> <p>The conversion of paper-based FS 21 into digital data was completed in November 2013. The contractor of the LIFIPS will complete the migration of the converted data to LIFIPS's database in the first quarter of 2014.</p>
<i>(b)</i>	<p><i>what actions have been / will be taken by the FSD to ensure that (i) the LIFIPS' data of FSIs installed in 47 000 buildings are accurate, and (ii) that the LIFIPS could ascertain for buildings with evidence of having conducted annual inspections, i.e. buildings with FS251, that the inspections had covered all the FSIs installed</i></p>
	<p>Extra temporary staff have been employed to convert paper-based building FSI information (FS 21) into digital data for input into the LIFIPS since December 2012. They are also responsible for inputting FS 251 information (annual inspection) into the LIFIPS. By cross-matching FS 21 and FS 251 data, discrepancies can be identified for detailed verification to ensure data accuracy. With up-to-date and accurate building FSI records in the LIFIPS, FSD can ensure that annual FSI inspections have covered all FSIs in a building.</p> <p>The Department will continue to deploy staff to input newly received FS 21 and FS 251 information into the LIFIPS and conduct verification to ensure data accuracy for subsequent monitoring of annual inspections of building FSIs.</p>
<i>(c)</i>	<p><i>whether the FSD had conducted any exercise of checking whether the 47 000 buildings had FS251s prior to April 2013; if so, how did the outcome of the past checking exercise(s) compare with the outcome of the checking exercise conducted in April 2013. According to paragraph 2.10 of the Audit Report, in April 2013, the FSD used LIFIPS to match the 47 000 building records with the records of some 135 000 FS 251s received for the 12 months since April 2012. The FSD found that no FS251 was received for 20 690 buildings (44% of 47 000), suggesting that annual inspection had not been conducted on their FSIs</i></p>
	<p>Prior to the commissioning of the LIFIPS, buildings lacking annual FSI inspections could not be readily identified. With the implementation of the LIFIPS which supports matching of FS 251s and FS 21s, buildings of different types which lack annual FSI</p>

	<p>inspections can be efficiently identified. The considerable number of cases involving buildings lacking annual FSI inspections so identified, which require follow up, have brought about a substantial increase in workload for staff.</p>
<i>(d)</i>	<p><i>how many of the 20 690 buildings, referred to in (c) above, had yet to submit their FS251s to the FSD</i></p>
	<p>Based on LIFIPS records, annual inspection of FSIs have been carried out in about 6 000 amongst the 20 690 buildings as at 17 December 2013. It is likely that annual FSI inspections have already been conducted and FS 251 submitted in some buildings out of the remaining 14 690 as there are around 15 000 FS 251s pending data input into the LIFIPS. In this connection, extra temporary staff have been employed to expedite data input work.</p>
<i>(e)</i>	<p><i>why the FSD was still not able to obtain detailed information on which buildings it had received FS251s by 31 August 2013, after issuing the advisory letters to owners, occupiers or management offices of the 20 690 buildings referred to in (c) above (paragraph 2.11 of the Audit Report refers)</i></p>
	<p>After the issue of advisory letters to owners, occupiers and management offices of the 20 690 buildings in April 2013, the number of FS 251s received ranges from 17 000 to 31 000 per month between May and November 2013. The FS 251 information has to be inputted into the LIFIPS for cross-matching to identify those buildings (out of the 20 690 buildings concerned) of which annual FSI inspections have been carried out or otherwise. Extra temporary staff have been employed to assist in data input work such that those buildings which still lack annual FSI inspections could be identified as soon as possible for further action.</p>
<i>(f)</i>	<p><i>whether the guidelines provided by the FSD to its staff on monitoring the rectification of defective FSIs, referred to in paragraph 2.16 of the Audit Report, has specified when an advisory letter and a warning letter should be issued</i></p>
	<p>For monitoring of the rectification of FSI defects, the Department has provided instructions to its staff stipulating the circumstances under which advisory letters or warning letters should be issued.</p>
<i>(g)</i>	<p><i>what is the latest ageing analysis of outstanding cases involving defects in major FSIs. According to paragraph 2.22(c) of the Audit Report, the FSD has reshuffled duties among staff to deal with additional caseloads. Additional features will be added to the LIFIPS to flag up overdue cases for case officers to take follow-up actions</i></p>
	<p>According to the ageing analysis of cases involving defects of major FSIs conducted in December 2013 (see <u>Annex I</u>), 2 081 of the mentioned 7 662 cases have been handled and completed. Manpower resources have been re-deployed and work processes re-engineered to expedite the handling of the remaining 5 581 cases. It is expected that these outstanding cases can be handled within the first quarter of 2014.</p> <p>In the longer term, work processes will be further reviewed and features will be added in the LIFIPS to streamline case handling and shorten case processing time.</p>

(h)	<p><i>with regard to the seven cases whereby the supervisors had not given any instruction on the different follow-up actions to take on major FSIs found with defects proposed by the case officers (referred to in paragraph 2.19(a) of the Audit Report) and to the three cases whereby the case officers had not carried out the follow-up actions by specified dates instructed by the supervisors on complaints about fire safety (referred to in paragraph 6.9(a)(i) of the Audit Report), whether the FSD (i) had studied why the staff concerned failed to take timely follow-up actions, (ii) whether any disciplinary action had been taken against the staff concerned; (iii) what actions had been taken by the FSD to address the problems; and (iv) what is the latest ageing analysis of outstanding complaint cases</i></p>
	<p>During the inception stage of implementing the LIFIPS, case officers need to adapt to the significant changes in work processes. Coupled with their increased caseload upon the efficient identification of non-compliance cases through LIFIPS (as mentioned in (c)), the workload has become so overwhelming that backlogs have accumulated at both case officer and supervisor levels. Having examined the seven cases mentioned in the Audit Report, the Department considers that while there is room for improvement in their handling, there is no misconduct on the part of officers involved as to warrant the contemplation of disciplinary action. The officers have been duly reminded to exercise vigilance to ensure the timely and proper handling of cases in future.</p> <p>On the procedure side, case processing procedures will be reviewed and features will be added in the LIFIPS to streamline case handling and shorten case processing time both at case officer and supervisor levels. The Department has sought the advice of the Efficiency Unit and a risk-based approach in arranging inspections will continue to be adopted, meaning that cases involving major defects of major FSIs will be accorded higher priorities for processing.</p> <p>The latest ageing analysis of outstanding complaint cases is in <u>Annex II</u>.</p>
(i)	<p><i>what is the FSD's analysis of unwanted alarms; and whether the study group formed by the FSD in 2006 to conduct a review to identify ways to reduce the number of unwanted alarms has come up with any new measures to tackle the problem, if so, what they are</i></p>
	<p>The Department has reviewed the causes of unwanted alarms in 2012. The four common causes are tabulated in <u>Annex III</u>.</p> <p>In the Study conducted in 2006, it came up with the following recommendations:</p> <ul style="list-style-type: none"> (i) Disconnect 'Direct Telephone Link' for electrical & mechanical plant rooms in domestic buildings; (ii) Replace smoke detectors by heat detectors in plant rooms or adopt 'Cross-zone' actuation or multi-sensor detectors; (iii) Disconnect detectors for automatic actuating device from 'Direct Telephone Link'; (iv) Disregard student hostels which are used for non-transient accommodation as sleeping risk occupancy;

	<p>(v) Disconnect the link of automatic fire detection system for rooms not used by visitors;</p> <p>(vi) Employ stand-alone sounder base detectors for hostels not used for transient accommodation;</p> <p>(vii) Review alarm zoning arrangements for premises of various occupancies;</p> <p>(viii) De-link manual fire alarm system from the automatic fire alarm system for certain buildings;</p> <p>(ix) Provide sounder-base detector for hotel/guesthouse; and</p> <p>(x) Conduct public education and regular visits to premises with frequent unwanted alarms.</p> <p>FSD has liaised with the Association of Registered Fire Service Installation Contractors of Hong Kong Limited, the Property Management Association, government property maintenance providers etc to remind them the importance of proper installation and maintenance of automatic fire detection systems to avoid unwanted alarms. Various pamphlets and posters on the subject have been produced and distributed to the concerned parties. The broadcasting frequency of APIs related to proper maintenance of FSIs will continue.</p>
<i>Monitoring licensed premises</i>	
(j)	<p><i>whether the five cases of delay in conducting verification inspections to food premises (referred to in paragraph 3.8 of the Audit Report) were due to negligence of staff; if so, whether any disciplinary action had been taken against the staff concerned and what remedial actions had been taken to avoid such delays from recurring</i></p>
	<p>Before conducting verification inspections of food premises, case officers usually need to liaise with licence applicants or the applicant's contractor / licensing consultant to agree on a date for inspection. As such, there may be delay in conducting verification inspections when a mutually agreed date could not be scheduled within the pledged time frame. Regarding the five cases mentioned in the Audit Report, there is no indication of misconduct on the part of the staff concerned which may warrant the contemplation of disciplinary action.</p> <p>In light of the Audit Commission's observations, an instruction has been issued in August 2013 to remind all case officers to carry out verification inspections concerning provisional licence applications within 7 working days. If a case officer and the licensee could not work out a mutually agreed inspection date within the pledged time frame, such must be documented.</p>
(k)	<p><i>why the FSD did not inform the Food and Environmental Hygiene Department (FEHD) of the 10 non-compliance cases with fire safety requirements. According to paragraph 3.10 of the Audit Report, in all the 17 non-compliance cases, the FSD issued letters to advise the provisional food business licensees to take immediate remedial action. However, it informed the FEHD in parallel in seven cases only and there were no documented reasons for not doing the same for the other 10 cases</i></p>
	<p>For the 17 cases mentioned in the Audit Report, the provisional food business licensees</p>

	<p>were unable to produce invoices and / or test certificates for PU foam filled furniture. It is quite common that licence applicants may not be able to get ready a full set of documents to prove the compliance of flammability standard of PU foam filled furniture at the time of issue of provisional licences (PLs).</p> <p>In some cases when a case officer has adequate reasons to believe that the PU foam filled furniture provided on the premises should have met the required flammability standard, e.g. there is a "flammability standard compliance label" affixed on the furniture or the applicant can provide other documentary proof to indicate that the furniture items are fabricated from certified materials, the use of such PU foam filled furniture will not be considered as a non-compliance of fire safety requirement which warrants the cancellation of PL. As such, the case would not be referred to the FEHD.</p> <p>In light of the Audit Commission's observations, revised guidelines have been issued in August 2013 to align the licensing processes in various offices. All case officers have been reminded to document their reasons of action and they are required to inform FEHD in case of non-compliance.</p>
(l)	<p><i>why the FSD had not taken any enforcement action against seven licensed premises which had not submitted any FS251 to the FSD for all four years from 2009-2010 to 2012-2013 (paragraph 3.16 of the Audit Report refers)</i></p>
	<p>Given the existing resources, a risk-based approach has been adopted to monitor fire safety standard of licensed premises. In the circumstances, licensed premises may not be subject to FSD's inspection annually. Should there be a breach of licence condition in regard to fire safety, inspection officer would take appropriate action including the issue of Fire Hazard Abatement Notice or institution of prosecution.</p> <p>As regards the irregularities identified by the Audit Commission and pursuant to extant legislation, such complaint shall only be made or such information shall be laid within 6 months from the time when matter of such complaint or information respectively arose. In other words, prosecution is time-barred and the cases have to be dealt with by other enforcement actions such as fire hazard abatement actions.</p>
(m)	<p><i>what are the criteria for selecting premises for inspection and determining the inspection frequencies, to avoid wasting valuable resources on inspecting premises which are not in operation and on re-inspecting premises with no irregularities found within a short period as illustrated in the cases referred to in paragraph 3.23 of the Audit Report</i></p>
	<p>FSD has, in consultation with the Efficiency Unit, adopted a risk-based inspection programme commencing December 2011. Licensed premises having higher fire risk, e.g. floor area larger than 230 m² and not located on ground floor, premises with sealed windows etc will be selected for inspection more frequently, whilst premises of lower fire risk will be inspected less frequently. Selection criteria and inspection frequencies are reviewed annually.</p> <p>As regards the circumstances revealed by the Audit Commission, guidelines have been issued in September 2013 requiring inspection officers to consult case files, LIFIPS</p>

	records, or the appropriate licensing authority to confirm case status to avoid unnecessary inspections.
(n)	<i>why there were no documented reasons for inspecting the school (referred to in paragraph 3.23(b) of the Audit Report) twice within a short period</i>
	<p>The subject school was randomly selected for inspection in July 2012 by Inspection Officer (A) under a risk-based inspection programme. In December 2012, the same school was again randomly selected for inspection by Inspection Officer (B) who was unaware of the prior inspection as he had not consulted the inspection record in the LIFIPS.</p> <p>To avoid recurrence of repeated inspections, guidelines have been issued in September 2013 requiring inspection officers to consult case files, LIFIPS records, or the appropriate licensing authority to confirm case status before conducting inspection.</p>
(o)	<i>Why the FSD did not apply for the orders to forfeit illegal fuel during the period from January 2010 to June 2013. According to the Dangerous Goods Ordinance (Cap.295), a magistrate may order a forfeiture of the dangerous goods with respect to which any offence against the Ordinance has been committed, whether any person has been charged with such offence or not</i>
	<p>Pursuant to Cap 295 Dangerous Goods Ordinance, the Department did have applied for court orders to forfeit dangerous goods (DG) in some DG cases. However, there is no provision empowering FSD to forfeit fuel involved in Illicit Fuelling Activities (IFA) pursuant to Cap 95F Fire Services (Fire Hazard Abatement) Regulation.</p> <p>FSD has formulated an action plan in 2012 to strengthen the combat against IFA and will monitor its effectiveness. If an offender of IFA is being prosecuted against Cap 295, FSD will endeavour to apply for court orders to forfeit fuels involved in IFA where appropriate to achieve a deterrent effect.</p>
<i>Monitoring ventilating systems</i>	
(p)	<i>What are the actions that will be taken by the FSD to rectify the existing incomplete records of ventilating systems in buildings referred to in paragraph 4.5 of the Audit Report</i>
	<p>As regards pre-2001 buildings, the majority of premises with higher fire and life risks, e.g. restaurants, cinemas, theatres etc in these buildings having ventilating systems (VS) installed are licensed premises which are subject to licensing regimes of respective licensing authorities. Thus their fire safety in relation to VS is considered sufficiently monitored.</p> <p>The Department opines that the VS database for licensed premises together with post-2001 building VS records in the LIFIPS can provide adequate information for monitoring VS which are required to be inspected annually by statute. Having said that, FSD will liaise with the concerned licensing authorities to establish a mechanism for regularly updating and verifying VS records.</p>

<i>(q)</i>	<i>why no warning letter had been issued or follow-up action had been taken by the FSD on 60 cases of ventilating systems not supported by inspection certificates referred to in paragraph 4.7 of the Audit Report</i>
	Since the commissioning of the LIFIPS in the first quarter of 2012, teething problems were encountered and staff required some time to get used to working with the LIFIPS. System bugs affecting the monitoring of annual inspections of VS in buildings had been identified and were fixed by the LIFIPS contractor. The problem was resolved in October 2013 and advisory letters were issued to owners of the 60 overdue cases in September 2013.
<i>(r)</i>	<i>why, as at 30 June 2013, 4 262 inspection certifications of ventilating systems had not been inputted into the LIFIPS; and whether this was due to negligence of staff</i>
	Upon the commissioning of the LIFIPS, all information related to licensing applications and the received Annual Inspection Certificates (AICs) have to be manually inputted into the LIFIPS. Given the existing resources, extra temporary staff have been employed to assist in inputting paper-based AIC information into the LIFIPS. No staff negligence is revealed.
<i>(s)</i>	<i>why of the 72 cases with defects reported in the ventilating systems selected for checking of accuracy of the inspection certificates (paragraph 4.12 of the Audit Report refers), in 63 cases the FSD conducted inspections beyond 20 days after receiving the inspection certificates</i>
	<p>Given the existing resources, only a percentage of received AICs are selected for audit inspection. There is no specific requirement for inspection to be conducted within a certain time frame.</p> <p>In light of the Audit Commission's observations, FSD will adopt a risk-based inspection programme where higher priority will be accorded to cases concerning major defects in ventilating systems.</p>
<i>Handling complaints about fire safety</i>	
<i>(t)</i>	<i>why six of the 45 complaint cases with target response time within 10 working days took 13 to 89 working days to complete and there were no documented reasons for approvals for the days; and why in 15 of the aforesaid 45 complaint cases, 13 of them had no documentary evidence that the complainants had been advised and in the other two cases the complainants were advised after 38 and 174 working days (paragraph 6.4 of the Audit Report refers); and</i>
	During the inception stage of implementing the LIFIPS, case officers need to adapt to the significant changes in work processes. Coupled with their increased caseload upon the efficient identification of non-compliance cases through LIFIPS (as mentioned in (c)), the workload has become so overwhelming that backlogs have accumulated. The Department considers that while there is room for improvement in the handling of the cases mentioned in the Audit Report, there is no misconduct on the part of officers involved as to warrant the contemplation of disciplinary action.

	<p>Instructions have been issued in October 2013 to remind case officers to strictly observe respective performance pledges. In addition, all related information, including case vetting, liaison with other departments, date of informing complainant of inspection outcome, reasons for not meeting pledges should be properly documented.</p>
(u)	<p><i>whether the FSD had put in place a system to penalize staff for the errors mentioned in (t) above; if not, whether consideration would be given to introducing such.</i></p>
	<p>There are statutory provisions in the Fire Services Ordinance and disciplinary codes in the FSD General Orders governing the performance of duty of FSD officers.</p> <p>As regards the circumstances highlighted in (t) above, the Department has put in place an active reporting mechanism since November 2013. In addition, supervisory level officers will select cases for audit purpose to ensure compliance. Where there is evidence of staff committing misconduct in the course of their duty, suitable disciplinary/administrative actions will be taken accordingly.</p>

Ageing Analysis of Cases Involving Defects of Major FSIs

Outstanding period (Day)	Number of cases as at 5.8.2013	<i>Cases completed as at 20.12.2013</i>
100 or less	2 552	572
101 to 150	973	239
151 to 200	1 069	244
201 to 250	997	312
251 to 350	1 375	458
Over 350	696	256
Total:	7 662	2 081

Ageing analysis of outstanding complaint cases

Outstanding period (Day)	Number of cases as at 15.7.2013	<i>Cases completed as at 20.12.2013</i>
30 or less	167	113
31 to 90	457	292
91 to 180	322	173
181 to 360	422	228
Over 360	157	77
Total:	1 525	883

The Four Most Common Causes of Unwanted Alarms in 2012

Ranking	Cause	Number in 2012
1	Detector fault	7 267
2	Control panel fault	6 691
3	Human activities, e.g. smoking, cooking, welding etc.	6 674
4	Environment impact, e.g. high humidity, dusty.	1 731

香港特別行政區政府
消防處



香港九龍尖沙咀東部康莊道一號
消防總部大廈

FIRE SERVICES DEPARTMENT
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

FIRE SERVICES HEADQUARTERS BUILDING,
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TSIM SHA TSUI EAST, KOWLOON,
HONG KONG.

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31 December 2013

Ms Mary SO
Clerk to Public Account Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms SO,

Public Accounts Committee
Consideration of Chapter 7 of the Director of Audit's Report No. 61
Government's efforts to enhance fire safety of old buildings

Thank you for your letter dated 20 December 2013. This Department's responses to the questions raised are set out in the Appendix to facilitate the Committee's consideration of the captioned Chapter of the Audit Report. The Chinese translation of our responses is also attached.

If you have any questions, please feel free to contact Mr. TSE Ping-ho, our Acting Assistant Director (Fire Safety), at 2170 9696.


(CHAN Chor-kam)
Director of Fire Services

c.c. Secretary for Financial Services and the Treasury (Fax : 2147 5239)
Secretary for Security (Fax : 2877 0636)
Director of Audit (Fax : 2583 9063)
FSD/CR 4-35/12C

Encl.

Public Accounts Committee
Consideration of Chapter 7 of the Director of Audit's Report No. 61
Government's efforts to enhance fire safety of old buildings

Response to Questions

<i>Implementation of fire safety improvement programmes</i>	
<i>(a)</i>	<p><i>Why the Fire Services Department (FSD) ceased to include both the annual compliance figures and cumulative compliance information in its Controlling Officer's Report from 2011-2012 onwards?</i></p>
	<p>The FSD ceased to provide the cumulative compliance information to supplement the annual compliance figures in the Controlling Officer's Report (COR) from 2011-12 onwards in an effort to simplify the presentation, taking also into account the common practice for the COR to contain only actual/estimate figures on a yearly basis for performance monitoring purpose instead of cumulative information. Though the presentation of cumulative figures has not been provided in the Report, the Department has maintained such information for internal reference.</p> <p>To enable stakeholders to have a better picture of the progress made in upgrading the fire safety provisions of Prescribed Commercial Premises/Specified Commercial Buildings/Target Composite Buildings, the Department is considering, in consultation with the Buildings Department (BD), the suitable means of promulgating the cumulative compliance information such as uploading relevant information onto the departmental website to be regularly updated for reference by members of the public.</p>
<i>(b)</i>	<p><i>What measures will be taken by the FSD to improve the compliance rate of directions issued by the FSD for Target Composite Buildings, including whether consideration would be given to setting a timetable for those Target Composite Buildings which have not yet complied with the directions to comply with the directions, and in the interim, assessing the risks posed by such non-compliance of directions. According to paragraph 2.16 of the Audit Report, the low compliance rates of direction issued for Target Composite Buildings by the FSD is a cause for concern, given that the Fire Safety (Buildings) Ordinance (Cap. 572) has been in operation for some six years?</i></p>
	<p>To the knowledge of the FSD, some building owners may have genuine difficulties in complying with certain fire service installation (FSI) requirements on account of the physical constraints and/or spatial problems of the buildings, as well as the lack of sufficient financial support. Without compromising basic fire safety, the FSD has been adopting a flexible and pragmatic approach in considering alternative proposals from the owners having regard to the merits of individual cases.</p> <p>The following measures will be taken to improve the compliance rates of directions issued by the FSD for Target Composite Buildings:-</p> <p>(i) <u>Paying more visits / inspections and issuing reminding letters / warning letters to the Incorporated Owners / owners / occupiers</u></p>

Case officers have been reminded to carry out periodic progress checks timely and issue reminding letters/warning letters if no active progress is noted. Quarterly checks of the Target Composite Buildings will be conducted after the initial issue of fire safety directions in the first year. As a general arrangement, reminding letters will be issued after the three-month and six-month checks respectively. Warning letters will be issued for the nine-month and 12-month checks respectively if no notable progress has been made. To better ensure compliance with the less complicated fire safety requirements such as emergency lighting and automatic cut-off devices for mechanical ventilating systems within six months, warning letters will be issued after the three-month and six-month progress checks right away.

For owners/occupiers of Target Composite Buildings granted 12-month extension of time (EOT) to comply with the directions for the first three times, periodic progress checks will be conducted nine months and 12 months after granting of EOT on each occasion, warning letters will be issued if no progress has been made. The FSD will contemplate prosecution action for cases without any progress upon the expiry of EOT.

As for cases warranting the grant of the EOT for the fourth time exceptionally, which will be considered and approved by a directorate officer, quarterly progress checks will be conducted to strengthen the monitoring of the fire safety improvement works underway.

(ii) Actively arranging meetings with the Incorporated Owners / owners / occupiers.

Thematic seminars will be arranged on a district / area basis for the concerned Incorporated Owners / owners / occupiers of Target Composite Buildings to help them better understand the Fire Safety (Buildings) Ordinance (Cap. 572 – FS(B)O).

(iii) Continuing to explore and apply flexible and pragmatic approach to help the Incorporated Owners / owners / occupiers to comply with the fire safety improvement measures.

As pledged during the legislative stage of the FS(B)O, the Administration has undertaken to adopt a flexible and pragmatic approach in enforcing the Ordinance. Relevant typical examples include:-

- Due to structural / spatial constraints, Fire Hydrant System may not be required for a target composite or domestic building with the overall building height not exceeding six storeys and direct vehicular access to the major face of the building is available.
- While the standard capacity of the Fire Service (FS) water tank for a Hose Reel (HR) system is 2 000 litres, reduction in FS tank capacity may be considered on a case-by-case basis. In exceptional circumstances where the provision of FS tank is not practicable, the entire HR system may be

	<p>replaced by the provision of portable fire extinguishers.</p> <p>➤ Due to spatial constraints, HR of reduced length or HR drums at high level positions may be accepted and FS inlet may be allowed to be installed at a location other than the principal face of a building.</p> <p>The FSD is now conducting a study on the scope of relaxing the water tank size of HR system to provide further flexibility to the owners / occupiers.</p> <p>The purpose of the FS(B)O is to provide <u>better protection</u> from the risk of fire for occupants and users of, and visitors to, the target composite and domestic buildings. As such, while the building FSI will be upgraded to the modern standard upon the implementation of improvement works under the Ordinance, the buildings concerned still maintain a certain level of protection with their existing fire safety provisions before completion of relevant improvement works and do not pose imminent danger. Nevertheless, the FSD aims at clearing the outstanding directions for Target Composite Buildings and is examining the implementation timetable as part of the overall review being conducted in conjunction with the BD.</p>
<i>Arrangements for inspections and issuing fire safety directions</i>	
(c)	<p><i>In respect of the Prescribed Commercial Premises inspection list, (i) what is the guidance or revised guidance, if any, for selecting Prescribed Commercial Premises for inclusion into the list; (ii) the progress of reviewing the list, in conjunction with the Buildings Department (BD), to see if there are inconsistency and omission in identifying Prescribed Commercial Premises; and (iii) the number of Prescribed Commercial Premises included into the list so far as a result of the review. According to paragraph 3.6 of the Audit Report, certain chain shops selling furniture and household items were included in the Prescribed Commercial Premises inspection list, whereas other chain shops selling similar products were not.</i></p>
	<p>(i) The FSD, in conjunction with the BD, has been selecting Prescribed Commercial Premises for inclusion into the inspection list with reference to the Fire Safety (Commercial Premises) Ordinance (Cap. 502 - FS(CP)O). Under the Ordinance, “Prescribed Commercial Premises” means a building, or a part of a building, for carrying on a commercial activity specified in its Schedule 1 with the total floor area of the building or part exceeding 230 square metres. For the purposes of the FS(CP)O, prescribed commercial activities cover:</p> <ul style="list-style-type: none"> (a) banking (other than merchant banking); (b) conduct of off-course betting; (c) conduct of a jewellery or goldsmith's business on premises that have a security area; (d) use as a supermarket, hypermarket or department store; (e) use as a shopping arcade. <p>whereas “department store” has been specifically defined as a shop where a wide variety of goods (for example, men’s and women’s clothing, furniture, electrical appliances and hardware) is sold in separate departments.</p>

	<p>To facilitate identification of Prescribed Commercial Premises for inclusion into the inspection list, the two departments have established relevant guidelines for reference by staff. For example, “supermarket or hypermarket” refers to a large self-service store selling foods, household goods which customers have to take the goods down from the racks and then pay at the cashier counter at the shop front; “jewellery or goldsmith’s business on premises that have a security area” means a jewellery shop which has a part of the premises that is segregated by a security partition, such as a bullet proof glass panel, from the part of the premises to which members of the public normally have access etc.</p> <p>The FSD is actively working with the BD in reviewing the existing guidelines with a view to updating it for reference by staff to facilitate their identification of Prescribed Commercial Premises in a more consistent and comprehensive manner.</p> <p>(ii) The FSD and the BD have set up a working group to take forward the reviewing of Prescribed Commercial Premises inspection list to ensure its accuracy and completeness.</p> <p>(iii) According to the work plan of the FSD/BD working group, a scouting exercise of Prescribed Commercial Premises would be conducted between December 2013 and May 2014. The type and number of Prescribed Commercial Premises that should be included in the list can be gauged after completion of this exercise.</p>
(d)	<p><i>What is the role(s) of the FSD in inspecting utilities buildings and taking follow-up actions on the deficiencies in their fire safety provisions (paragraph 3.10 of the Audit Report refers)?</i></p>
	<p>The purpose of FS(CP)O is to provide better protection from the risk of fire for occupants and users of, and visitors to, Prescribed Commercial Premises and Specified Commercial Buildings. Should a utility building be classified as a Specified Commercial Buildings, the FSD and the BD will jointly inspect that building and issue fire safety improvement directions to the building owners / occupiers on an agreed date, specifying the fire safety requirements to be improved. Should any fire hazards as defined under the Fire Services Ordinance (Cap 95) be spotted in the building during the initial and follow-up inspections, the FSD will take fire hazard abatement actions against the owners/occupiers of the utility building concerned.</p>
(e)	<p><i>What is the timing for completing the review of the Prescribed Commercial Premises inspection list, and whether consideration would be given to reporting the matter to the relevant committee of the Legislative Council for follow-up as deficiencies in the fire safety provisions pose imminent danger to life or property?</i></p>
	<p>The review of the PCP inspection list, including the scouting exercise mentioned in item (c)(iii) above, is expected to be completed around May 2014. For the avoidance of doubt, the purpose of FSI improvement works is to enhance the fire safety standards of the PCP to that stipulated in the FS(CP)O. It carries no suggestion that there is any</p>

	<p>imminent fire hazard in the premises concerned. As the occupiers / users / visitors of those premises are still under reasonable protection so long as the premises are clear of fire hazard and properly managed, the fire safety provisions of the PCP concerned are not considered to be posing any imminent danger to life or property which would warrant a report to the relevant committee of the Legislative Council.</p>
(f)	<p><i>In respect of the long time taken in issuing fire safety directions (paragraph 3.19 of the Audit Report refers), what is the progress or are the results of the overall review of the appropriate performance targets on issuing the fire safety directions, conducted in conjunction with the BD, and the timeframe for clearing the backlog of issuing the fire safety directions to target buildings / premises which were overdue?</i></p>
	<p>Working groups headed by directorate officers of the FSD and the BD have been set up to study and follow up on the observations and recommendations made by the Audit Commission. Joint discussions are in progress and different options to improve the timeliness in issuing fire safety directions and the timetable for clearing relevant backlog have been formulated for further consideration, having regard to the manpower and resources available in the two departments. It is expected that an improvement plan will be firmed up around May 2014.</p> <p>Besides the plan for improving the timeliness in issuing directions and clearing the backlog cases, the FSD will enhance the computer system (LIFIPS) to strengthen monitoring and control of the issuance of fire safety directions.</p>
<p><i>Administration of fire safety directions issued</i></p>	
(g)	<p><i>In respect of the computer system for case management and monitoring the follow-up actions on directions issued referred to in paragraph 4.5 of the Audit Report, (i) what is the progress of the FSD in enhancing the system; (ii) whether key information, i.e. dates of expiry of directions and details of extensions of time granted, will require manual input into the system; and (iii) whether the system is the “Integrated Licensing, Fire Safety and Prosecution System” referred to in Chapter 6 of the Audit Report on “ Fire protection and prevention work of the FSD?</i></p>
	<p>(i)&(iii)With the commissioning of the “Integrated Licensing, Fire Safety and Prosecution System” (LIFIPS) in 2012 (i.e. the same system as referred to in Chapter 6 of the Audit Report on “Fire protection and prevention work of the FSD”), its functionality can be enhanced to strengthen case management and monitoring of follow-up actions by incorporating the required “bring-up” features. While plan is in hand to enhance the system, key data including the dates of initial inspection, inspection report submission, issue of direction and its expiry as well as the periodic checks required as maintained in the rudimentary computer system previously in use need to be inputted into LIFIPS manually. The required data input is in progress and expected to be completed around February 2014. When the enhancement programme is completed, automated notification will be generated to alert the concerned case officer and his/her supervising officer if the case has not been timely handled by the case officer.</p>

	(ii) When the data input and the enhancement of LIFIPS have been completed, the system will automatically generate the key information (i.e. dates of expiry of directions and details of EOT granted) to facilitate case management.
(h)	<i>Whether actions have been / will be taken by the FSD to improve the functionality of its various computerized management information systems, such as the ability to maintain the latest updated information, and reduce the downtime of these systems; if so, what they are?</i>
	Case officers have been reminded to update the latest progress of the cases under their management in LIFIPS. In addition to close monitoring by FSD staff daily to reduce downtime of the system, a backup server has also been provided to ensure data resilience in case of system failure.
(i)	<i>What actions will be taken to prevent inadequate progress check on required works? According to Case 5 in paragraph 4.8 of the Audit Report, from 2002 to 2009, the FSD approved extension of time for complying with the required works on six occasions and conducted 25 progress checks. Of the 81 directions issued by the FSD, 73 were complied with by June 2009. For each of the remaining eight directions, the FSD issued a warning letter in mid-August 2009. Subsequently, the FSD approved extensions of time on three occasions from late August 2009 to August 2012, but conducted only one progress check in August 2012. Thereafter, the FSD had not conducted any progress check or taken any enforcement action although the eight directions had not been complied with for 11 months.</i>
	Case officers have been reminded to carry out periodic progress checks timely. As mentioned under item (g) (i)&(iii) above, the FSD will enhance the functionality of the LIFIPS to strengthen case management and monitoring of follow-up actions. The strengthened features will be put to use upon the completion of the required data input as well as system enhancement.
(j)	<i>In respect of Case 7 referred to in paragraphs 4.10-4.11 of the Audit Report, (i) what are the reasons for the long time taken by the FSD to instigate prosecution actions against the owner / occupier of the subject premises for not complying with directions issued without reasonable excuses and (ii) whether the delay in taking enforcement action involved staff negligence; and if so, whether any disciplinary action had been taken against the staff concerned or whether any improvement measures had been put in place to prevent the situation from recurring?</i>
	For the avoidance of doubt, the premises in question complied with the fire safety requirements prevailing at the time when they were constructed and hence maintain a certain level of fire safety protection before completion of the fire safety improvement works required by the directions. In respect of the case specified in the Audit Report:- It had not been timely followed up due to the limitations in the monitoring and bring-up functions of the rudimentary computer system in use at the time.

	<p>Having examined the circumstances of the case concerned, the Department considers that while there is room for improvement in its handling, there is no misconduct on the part of officers involved as to warrant the contemplation of disciplinary action. All case officers of the Department have been reminded to observe the procedural instructions on enforcement actions against non-compliant owners/occupiers. Supervising officers have also been reminded to tighten the relevant monitoring work. In addition, as mentioned under item (g) (i)&(iii) above, the FSD will further enhance LIFIPS to strengthen case management and monitoring of the progress of compliance with the fire safety directions issued to prevent the situation from recurring.</p>
(k)	<p><i>In respect of your response referred to in paragraph 4.15 (b)(ii) of the Audit Report, please provide details of the reasons for not strictly observing the FSD procedural instructions on enforcement actions against non-compliant owners / occupiers; and what improvement measures have been / will be taken to address the problem?</i></p>
	<p>The failure to strictly observe the procedural instructions in certain cases was mainly due to the limitations of the monitoring function and case management capabilities of the rudimentary computer system in use at that time. The replies under item (g) (i)&(iii) above are relevant.</p> <p>Other than reminding FSD case officers to strictly observe the procedural instructions in handling relevant cases, the Department has also reminded the supervising officers to tighten up their monitoring work.</p>
<p><i>Follow-up actions on unauthorized building works found during inspections</i></p>	
(l)	<p><i>Whether the FSD has a responsibility in assisting the BD in regulating unauthorized building works (“UBWs”); and if so, what it is?</i></p>
	<p>The BD is vested with the statutory power to take enforcement action against UBWs and structural alteration inside a building under the Buildings Ordinance (Cap. 123). Such enforcement work falls outside the FSD’s jurisdiction. When suspected UBWs and structural alteration are spotted by FSD staff during inspection or progress check, the case would be referred to the BD for action.</p>
(m)	<p><i>Referring to the Case 8 and Case 9 mentioned in paragraph 5.5 of the Audit Report, whether the FSD has a responsibility in assisting the BD in the follow-up actions on the UBWs; if so, what is the work of the FSD in this regard, if not, whether consideration would be given to working with the BD to solve the problems?</i></p>
	<p>As mentioned under item (l), the FSD would refer suspected UBWs and structural alteration to the BD for action. At the same time, the FSD would instigate enforcement action to abate any identified fire hazard as defined under the Fire Services Ordinance (Cap 95), such as obstruction of means of escape; locking of means of escape; wedged-open smoke stop door.</p> <p>In addition to these ongoing efforts, as the common parts of old-style domestic and</p>

<p>composite buildings, especially the common escape staircases, are more prone to the problems of poor management and maintenance, causing irregularities in fire-resisting construction and means of escape, and thereby adversely affecting the fire safety of the buildings, the BD and the FSD have commenced a one-year joint operation since April 2013 to inspect the common means of escape of about 6 500 old-style domestic and composite buildings. Based on the inspection results as well as the evidence collected, the two departments would take appropriate enforcement action against the irregularities in accordance with the relevant ordinances. Publicity leaflets would also be distributed during the inspection to enhance awareness of fire safety among residents in such old-style buildings.</p>



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8 January 2014

Ms Mary SO
Clerk to Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms SO,

**Public Accounts Committee
Consideration of Chapter 7 of the Director of Audit's Report No. 61
Government's efforts to enhance fire safety of old buildings**

Thank you for your letter of 20 December 2013 enclosing the questions raised by the Committee on the captioned Chapter of the Director of Audit's Report No. 61.

Please find the responses from the Buildings Department in the attach Appendix for the consideration of the Committee.

Should you require any further information, please feel free to contact Mr. CHOW Kim-ping, Alex, Assistant Director/Mandatory Building Inspection at 2626 1151 or Mr. SHUM Luk-cheung, Chief Building Surveyor/Fire Safety at 2135 2401.

Yours sincerely,

(HUI Siu-wai)
Director of Buildings (Acting)

c.c. Secretary for Financial Services and the Treasury (fax no. 2147 5239)
Secretary for Development (fax no. 2899 2916)
Secretary for Security (fax : 2877 0636)
Director of Audit (fax no. 2583 9063)

Responses to questions from the Public Accounts Committee

- (a) *why the Buildings Department (“BD”) ceased to include both the annual compliance figures and cumulative compliance information in its Controlling Officer’s Report from 2011-2012 onwards;*

BD’s response

The Director of Audit recommended in the Audit Report 2004 that the Director of Fire Services and the Director of Buildings should report the compliance positions of Prescribed Commercial Premises (PCP) and Specified Commercial Buildings (SCB) in the Controlling Officer’s Reports (CORs).

After review, the following figures were included in the respective CORs of BD and FSD since 2006-2007:

- **Targets** – the number of SCB and PCP inspected;
- **Indicators** – the number of directions issued and the number of directions complied with/discharged; and
- a narrative showing the cumulative progress of the implementation programme as supplementary information.

Considering that the annual COR generally provides information on the work performance of the relevant year and it is not a common practice to include cumulative figures, BD ceased to include the cumulative compliance information relating to PCP and SCB in the COR since 2011-2012. Nevertheless, such information continues to be submitted to the Senior Management of the BD for monitoring purposes.

In response to the Recommendation 2.23(a) in the current Audit Report, the BD is considering, in consultation with the Fire Services Department (FSD), including and regularly updating the cumulative compliance information in its website so as to facilitate public access to the relevant information and monitoring of the compliance performance by stakeholders.

- (b) *why the percentages of the Prescribed Commercial Premises having complied with the directions issued by the BD were much lower than the percentages of the Prescribed Commercial Premises having complied with the directions issued by the Fire Services Department ("FSD") (Figure 1 in paragraph 2.12 of the Director of Audit's Report refers); and what actions will be taken by the BD to improve the situation;*

BD's response

The scope and nature of fire safety upgrading works imposed by BD and FSD are different and the compliance rates with the directions issued by the two departments cannot be compared directly.

The fire safety upgrading works imposed by BD are construction requirements involving building works which usually require longer time to co-ordinate and complete. We are aware of the practical difficulties for some building owners to comply with the fire safety construction requirements imposed by the BD. These difficulties may arise from the physical constraints and/or structural problems of the existing buildings. Also, the tenants are usually concerned that the associated building works would disrupt their businesses, and are thus reluctant to facilitate the building owners in carrying out the required upgrading works.

Without compromising basic fire safety, the BD has been adopting a flexible and pragmatic approach in considering alternative proposals to achieve the equivalent standard from the owners on individual case basis.

We will continue to render assistance to the owners for complying with the directions. The measures include:-

- offering technical advice, attending meetings with the owners and their appointed consultants;
- administering Building Safety Loan Scheme to provide financial assistance;
- participating in District Fire Safety Committee Meetings/ Fire Safety Carnivals/ Seminars at district level to instill the concept of upgrading fire safety.

- (c) *what measures will be taken by the BD to improve the compliance rate of directions issued by the BD for Target Composite Buildings, including whether consideration would be given to setting a timetable for those Target Composite Buildings which have not yet complied with the directions to comply with the directions; and in the interim, assessing the risks posed by such non-compliances of directions. According to paragraph 2.16 of the Audit Report, the low compliance rates of directions issued for Target Composite Buildings by the BD are a cause of concern, given that the Fire Safety (Buildings) Ordinance (Cap. 572) has been in operation for some six years;*

BD's response

We are aware of the practical difficulties for some building owners to comply with some of the fire safety construction requirements. These difficulties may arise from the physical constraints and/or structural problems of the buildings, as well as the lack of adequate financial support. Without compromising basic fire safety, BD has been adopting a flexible and pragmatic approach in considering alternative proposals to achieve the equivalent standards from the owners on individual case basis.

We will continue to render assistance to the owners for complying with the directions. The measures include:-

- offering technical advice, attending meetings with the owners and their appointed consultants;
- administering Building Safety Loan Scheme to provide financial assistance;
- working with HAD in assisting the formation of Owners' Corporations; and
- participating in District Fire Safety Committee Meetings/Fire Safety Carnivals/ Seminars at district level to instill the concept of upgrading fire safety.

The target buildings were required to comply with the fire safety construction requirements under the Buildings Ordinance prevailing at the time of their construction. Despite the issuance of directions which are for the upgrading of fire safety, these buildings have already attained certain levels of fire safety protection and do not pose imminent danger. In cases where the buildings pose

imminent danger to the public, the BD would take necessary enforcement action. Nevertheless, the BD will consider formulating an appropriate timetable in clearing the outstanding directions for Target Composite Buildings for effective use of resources. This will be included in the overall review to be conducted in conjunction with the FSD.

- (d) *what are the reasons for the BD to take some 10 years in deciding that the two utilities buildings, referred to in paragraph 3.10 of the Audit Report, should not be exempted from the Fire Safety (Commercial Premises) Ordinance (Cap. 502); what is the number of utilities buildings presently being considered by the BD for exemption or otherwise from Cap. 502; and whether the BD has specified the conditions for exemption;*

BD's response

The BD had been following up the subject cases. However, there had been different views on the cases among BD colleagues, and the different design and construction of the buildings had further complicated the issues.

BD is now considering one case on whether an utilities building (Building C in the Case 1) is subject to the FS(CP)O. Consideration for applicability of the FS(CP)O would be made on a case by case basis, according to the use/construction of the building and the provisions of the FS(CP)O.

- (e) *in respect of the long time taken in issuing fire safety directions (paragraph 3.19 of the Audit Report refers), what is the progress or are the results of the overall review of the appropriate performance targets on issuing the fire safety directions, conducted in conjunction with the FSD, and the timeframe for clearing the backlog of issuing the fire safety directions to target buildings/premises which were overdue;*

BD's response

Working groups headed by directorate officers of FSD and BD respectively have been set up to study and follow up on the observations and recommendations made by the Audit Commission. The working groups have also held joint

meetings to discuss the way forward to implement such recommendations.

The working groups have proposed plans to improve the timeliness in issuing directions and to clear the backlog of issuing fire safety directions for further consideration, having regard to factors such as manpower and resources constraints and synchronized actions with other major building repair / investigations works.

The working groups will further discuss the proposed plans. It is expected that a plan for improving the timeliness in issuing directions and clearing the backlog cases will be formulated in around May 2014.

Besides the plan for improving the timeliness in issuing directions and clearing the backlog cases, the BD has initiated enhancements to the computerized system on monitoring of the issuance of fire safety directions.

On the other hand, in order not to cause any repeated disturbances to the building owners within a short period of time, the BD has decided to defer its actions in issuing fire safety directions for cases with major repair works carried out arising from the BD's other large scale operations in recent years. The BD will continue to monitor the cases with a view to ensuring prompt issuance of directions.

- (f) *in respect of Case 7 referred to in paragraphs 4.10-4.11 of the Audit Report, (i) what are the reasons for the long time taken by the BD to instigate prosecution actions against the owner/occupier of the subject premises for not complying with directions issued without reasonable excuses; and (ii) whether the delay in taking enforcement action involved staff negligence; and if so, whether any disciplinary action had been taken against the staff concerned or whether any improvement measures had been put in place to prevent the situation from recurring;*

BD's response

The premises concerned complied with the fire safety construction requirements prevailing at the time when they were constructed. Despite the issuance of the directions which are for the upgrading of fire safety, the premises had already

attained certain levels of fire safety protection and do not pose imminent danger.

As mentioned in (b) above, BD is aware of the practical difficulties encountered by the building owners, which may hinder the progress in complying with the directions. While it is required that the directions are to be complied with within a specified period, the building owners may apply for an extension of compliance period provided that there are reasonable excuses. At the same time, BD will take various measures to render assistance to the owners for complying with the directions as mentioned in (c). Prosecution is only instigated when the directions have not been complied with within a specified period without any reasonable excuse. As at 31 December 2013, there were 1079 expired directions to be followed up.

The case has been closely monitored, and the owner recently has agreed to submit the programme of works for our consideration.

We will enhance our monitoring system for the non-compliant cases, and to take appropriate actions, including stepping up enforcement action on long outstanding cases without reasonable excuses, with effective use of resources.

- (g) *in respect of the BD's follow-up actions on sub-divided flats, (i) what is the number of such flats pending enforcement actions to be taken by the BD, and the number of such flats still not removed by the owners after the specified deadline; and (ii) whether the BD will accord priority in handling these flats.*

BD's response

Apart from handling reports on sub-divided flats for domestic use (SDFs) made by members of the public, the BD has launched large scale operations (LSOs) since April 2011 to tackle the problem of irregularities of building works associated with and/or unsuitable change of use in SDFs in the territory.

Since April 2011, the BD has identified 3798 SDFs in 485 target buildings in the LSOs and issued 1445 statutory orders for rectification of irregularities of buildings works associated with SDFs. By the end of December 2013, 410 orders had been complied with whilst 1,035 orders are pending further enforcement actions, including prosecution actions against owners who have not

complied with the orders.

Where irregularities of buildings works or unsuitable change in use that pose serious life and limb hazard to the occupants are identified, the BD will take priority enforcement actions. The BD will also take emergency enforcement action where necessary, including rectification of the irregularities in default of the owners.

ACRONYMS AND ABBREVIATIONS

AFCD	Agriculture, Fisheries and Conservation Department
Audit	Audit Commission
AWT	Average Waiting Time
B/D	Bureaux/Departments
BA	Building Authority
BD	Buildings Department
BI	Biennial flat inspection
BO	Buildings Ordinance (Cap. 123)
C1P	Converted One Person
CCC	Craigengower Cricket Club
CFS	Centre for Food Safety
CMIS	Complaints Management Information System
Codex	Codex Alimentarius Commission
COO	Chief Operations Officer
CreateHK	Create Hong Kong
CTB	Central Tender Board
DEVB	Development Bureau
DH	Department of Health
DLO	District Lands Office
DLO/HKE	District Lands Office/Hong Kong East
DoJ	Department of Justice
DRA	Domestic Removal Allowance
DSHMs	District Senior Housing Managers
DTMO	Domestic Tenancy Management Office
DTMS	Domestic Tenancy Management Sub-system
EA Panel	Panel on Environmental Affairs

ACRONYMS AND ABBREVIATIONS

EFAS	Express Flat Allocation Scheme
ENB	Environment Bureau
EOC	Equal Opportunities Commission
EPD	Environmental Protection Department
ETW	Average elapsed time while waiting for public rental housing
ExCo	Executive Council
FEHD	Food and Environmental Hygiene Department
FSD	Fire Services Department
FSIs	Fire service installations and equipment
GRS	Government Records Service
HA	Hong Kong Housing Authority
ha	Hectares
HAB	Home Affairs Bureau
HAD	Home Affairs Department
HD	Housing Department
HKJC	Hong Kong Jockey Club
HKPF	Hong Kong Police Force
HKSAR	Hong Kong Special Administrative Region
HMs	Housing Managers
Hong Kong Code	Hong Kong Code of Marketing of Breast-milk Substitutes
HOS	Home Ownership Scheme
HSC	Housing for Senior Citizen
HSP	Housing Subsidy Policy
JD	Sino-British Joint Declaration
Lands D	Lands Department

ACRONYMS AND ABBREVIATIONS

Lands D Instructions	Lands Administration Office Instructions
LCIS	Land Control Information System
LCSD	Leisure and Cultural Services Department
LD	Labour Department
LegCo	Legislative Council
LPG	Liquefied-petroleum-gas
LTHS	Long Term Housing Strategy
LTHS Steering Committee	Long Term Housing Strategy Steering Committee
LU	Lettings Unit
M&As	Memorandum and Articles of Association
MAC	Management Advisory Committee
NGOs	Non-governmental organizations
NSAs	National sports associations
PHRM	Public Housing Resources Management Sub-section
PRH	Public rental housing
PRLs	Private recreational leases
PTGs	Private treaty grants
PUO cases	Prioritized under-occupied cases
QF	Qualifications Framework
QPS	Quota and Points System
RCMs	Regional Chief Managers
RCSU	Registration and Civil Service Unit
SCAA	South China Athletic Association
SPRs	Government Stores and Procurement Regulations
SRA	Policy on Safeguarding Rational Allocation of Public Housing Resources

ACRONYMS AND ABBREVIATIONS

STH	Secretary for Transport and Housing
STT	Short term tenancy
TD	Transport Department
THB	Transport and Housing Bureau
the Steering Committee	Steering Committee on District Administration
UNHCR	United Nations High Commissioner for Refugees
UO	Under-occupation
WG	Working group
WL	Waiting List
WLIL	Waiting List Income Limit
WLU	Waiting List Unit
YERCs	Youth Employment Resource Centres
YETP	Youth Employment and Training Programme