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22 December 2017

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Hon Steven HO Chun-yin, BBS  
Chairman of the Panel on Food Safety and Environmental Hygiene,  
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Central, Hong Kong

Dear Hon Cheung, Hon Ho,

**Division of Work of the Joint Office (JO) in  
Investigation of Water Seepage Complaints**

An email dated 24 November 2017 from Legco Secretariat requests the Development Bureau coordinating with the Food and Health Bureau (FHB) to respond to a letter dated 8 November 2017 from Hon Regina IP in respect of the captioned subject. In consultation with FHB, Buildings Department (BD) and Food and Environmental Hygiene Department (FEHD), our reply is as follows.

**A. Set-up and duties arrangement of JO**

2. JO was a Team Clean initiative with an aim to improve inter-departmental co-ordination in dealing with building water seepage problems in swift and effective means. As suggested in the Team Clean Report, the composition and operation of JO are mainly as follows:

- (a) having both the statutory power of FEHD and the building survey expertise of BD working at one office;
- (b) outsourcing the water seepage investigation work to private surveying firms (consultants) in considering the current work priorities of BD; and
- (c) coordinating enforcement actions when the source of water seepage is identified by the consultants.

3. Under the current operation of JO, FEHD officers are responsible for enforcement actions while BD officers provide professional support. The two respective departments will exercise their expertise and legal authority in their respective fields so as to deploy different staff in engaging different stages of investigations. The current establishment of JO consists of 217 FEHD officers, including 13 Senior Health Inspectors, 163 Health Inspectors and 41 Environmental Nuisance Investigators, deployed to 19 District Environmental Hygiene Offices (District Offices) under FEHD.

4. Meanwhile, the JO also consists of 64 BD's professional and technical staffs including two senior professionals, 10 professionals and 52 technical officers mainly deployed to 4 district offices viz. Mongkok, Kowloon City, Kwun Tong and Chai Wan (and few staffs are stationed at the district offices at Shamshuipo and Kwai Fong). Nine consultants were appointed by BD through 12 consultancy agreements to assist in building water seepage investigation works.

5. When JO receives a building water seepage report, FEHD officers will conduct initial inspection to confirm the existence of water seepage nuisance (Stage I) and also perform basic tests on the drainage outlets to identify the source of seepage (Stage II). When the source of seepage cannot be identified by FEHD officers, BD officers will then carry out professional investigations in conducting detailed investigation (Stage III). Once the source of seepage has been identified at any stage of the investigation, FEHD officers will make use of their legal authority under the Public Health and Municipal Services Ordinance (PHMSO) (Cap. 132) for taking legal proceedings against the persons concerned, including issuing Nuisance Notices and instigating prosecutions if the notices are not complied with.

**B. Arrangement for gaining access to premises for carrying out water seepage investigation**

6. When carrying out water seepage investigation, if owners or occupants do not cooperate by allowing the JO staff or its consultants to enter the flat for investigation, JO may apply to the Court for a warrant authorising the JO staff to enter the premises for investigation in accordance with PHMSO. Since its the establishment in 2006, JO has been dedicated to enhance the process in gaining access to premises:

- (a) JO will issue notices in advance, including the Notice of Appointment, Notice of Intended Entry (NOIE) and Notice of Intention to Apply for Warrant of Entry (NOIEW), to let owners or occupants timely arrange with the staff of JO or its consultants for access into the premises for water seepage investigation;
- (b) The consultants should post a Notice of Appointment letter at a conspicuous part of the premises and also put the letter into the relevant letter box after an unsuccessful visit, with a view to seeking more positive response from the owners or occupants;
- (c) Before making recommendation to JO for application of warrants, the consultants should have made repeated attempts to visit the premises at different timing with detailed records of the dates, time and photo records of the attempts; and

- (d) When contacting the owners/occupants for arrangement of access to the premises for water seepage investigation, the consultants will state clearly the name, position and contact number of JO case officer in-charge to allay the concern of the owners/occupants.

7. JO has applied for a total of 55 warrants from the Court in 2016 and successfully entered the concerned premises for water seepage investigations. The preparatory works for applying warrant include processing the relevant NOIE and NOIEW procedures according to the geographical distribution under the 19 District Offices by FEHD officers together with the consultants in the past. To expedite the process to enter a premises, the BD officers have been responsible for the preparation and delivery of NOIE and NOIEW for the four district offices viz Mongkok, Kowloon City, Kwun Tong and Chai Wan since 2016. It is appropriate to maintain the arrangement for FEHD officers in handling the respective preparatory works at the remaining 15 District Offices as per the prevailing staff arrangement of FEHD and BD at District Offices and in JO (refer to paragraphs 3 and 4).

**C. Arrangement of enforcement action under the Public Health and Municipal Services Ordinance, Cap. 132**

8. As stated in paragraph 2 above, JO possesses the legal authority of FEHD and the building survey expertise of BD. FEHD has taken enforcement actions against water seepage nuisance under the legal authority of the PHMSO while BD officers will exercise their expertise to carry out professional and technical investigations and attend court hearings as expert witnesses when necessary. The system has been working effectively and the division of work is clear (for details please refer to the paragraph 5 above). If the work currently undertaken by FEHD in accordance with PHMSO to be taken up by BD, it will increase the workload of BD officers and undermine the output and performance of the Stage III investigation.

**D. Water Seepage Cases involving Unauthorised Building Works (UBWs)**

9. JO is duty-bound under the PHMSO to deal with water seepage constituting a public health nuisance in private properties irrespective whether UBWs are identified in the premises. In order to abate the nuisance effectively, it is necessary to carry out inspection and investigation according to the JO's established procedures. Meanwhile, upon receipt of any referral of UBWs, BD officers other than those of JO will take follow-up and enforcement action in accordance with the Buildings Ordinance (BO) (Cap. 123) and prevailing enforcement policy against UBWs. The enforcement work of BD to combat UBWs under BO and prevailing enforcement policy against UBWs cannot replace the enforcement work of JO, which tackles nuisance problems relating to environmental hygiene under the PHMSO. UBWs removal by BD could not simultaneously eliminate the insanitary and nuisance problems caused by water seepage.

10. According to the workflow of JO in handling water seepage in buildings, if building safety issues are identified for example defective external drainage pipes or suspected UBWs during water seepage investigations, the cases will be referred to BD for follow-up actions. FEHD has issued a circular memorandum reminding staff of the District Offices and JO that if the water seepage reports that may involve UBWs, other than referring the suspected UBW cases to BD for follow-up actions, FEHD officers should also carry out Stage II investigation and issue notice to the relevant owners or occupants when the source of water seepages is identified, so as to alleviate the nuisances caused by water seepage.

**E. Review on the posts of Health Inspector in the JO [Input from FEHD]**

11. The JO pilot programme was implemented in phases since December 2004. The JO service was extended to the 19 District Offices in July 2006. There were only 81 FEHD's non-civil service contract Environmental Nuisance Investigators at the beginning. Since then, FEHD increased manpower to 166 Environmental Nuisance Investigators in March 2012 to meet service need.

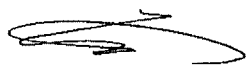
Since the Environmental Nuisance Investigators were contract staff, their turnover rate was high and affected the daily operation of JO. To maintain the smooth operation of JO and enhance the efficiency of JO in handling water seepage complaints, FEHD has been constantly seeking for more permanent civil service posts of Health Inspector in the past few years to replace the posts of Environmental Nuisance Investigator. From 2011 to 2015, FEHD created 163 posts of Health Inspector in JO. Currently, the JO consists of 204 frontline officers, including 41 Environmental Nuisance Investigators.

12. The FEHD created nine Senior Health Inspector posts in JO in 2013. Depending on the operational need, there are 13 Senior Health Inspectors in the JO specifically responsible for dealing with water seepage complaints and 25 other Senior Health Inspectors in the District Offices for handling water seepage cases in FEHD.

13. The FEHD and BD will continue to review JO's manpower distribution, work procedures and its effectiveness, including the annual number of handling water seepage complaints, etc so as to arrange appropriate manpower resources and monitoring technology according to service needs with an aim to streamline JO's workflow and provide quality service to the public.

14. If there is any enquiry concerning the above, please contact the undersigned.

Yours sincerely



( Calvin TANG )

for Secretary for Development

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