REPORT OF THE

PUBLIC ACCOUNTS COMMITTEE

ON

REPORT NO. 32 OF THE DIRECTOR OF AUDIT

ON

THE RESULTS OF

VALUE FOR MONEY AUDITS

AND

SUPPLEMENTAL REPORTS ON

REPORT NOS. 30 AND 31 OF THE DIRECTOR OF AUDIT

ON

THE RESULTS OF

VALUE FOR MONEY AUDITS

July 1999

P.A.C. Report No. 32

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I. 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. **The 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	The Hon Eric LI Ka-cheung, JP
Deputy Chairman	The Hon Fred LI Wah-ming, JP
Members	The Hon David CHU Yu-lin The Hon NG Leung-sing The Hon Mrs Sophie LEUNG LAU Yau-fun, JP The Hon LAU Kong-wah The Hon Emily LAU Wai-hing, JP
Clerk	Mrs Florence LAM IP Mo-fee
Legal Adviser	Mr Jimmy MA Yiu-tim, JP

II. PROCEDURE

The Committee's Procedure The Committee's 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 Bureau Secretary of the Government or other appropriate officers shall be called. Attendance 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 attend 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 can assist the Committee in its deliberations;

(c) the Director of Audit and the Secretary for 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

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

2. **The Committee's Report** This Report by the Public Accounts Committee corresponds with Report No. 32 of the Director of Audit on the results of value for money audits which was tabled in the Legislative Council on 21 April 1999. 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***.

3. This Report also contains the Public Accounts Committee's supplemental reports on two chapters in Report Nos. 30 and 31 of the Director of Audit on the results of value for money audits which were tabled in the Legislative Council on 18 November 1998. The Committee's Report Nos. 30 and 31 were tabled in the Legislative Council on 10 February 1999.

4. **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.

III. THE DIRECTOR OF AUDIT'S REPORTS ON THE ACCOUNTS OF THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION FOR THE YEAR ENDED 31 MARCH 1998 AND THE RESULTS OF VALUE FOR MONEY AUDITS (REPORT NOS. 30 AND 31)

The Laying of the Reports The Director of Audit's Report on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 1998 and the Reports on the results of value for money audits (Report Nos. 30 and 31) were laid in the Legislative Council on 18 November 1998. The Committee's subsequent Reports were tabled on 10 February 1999, thereby meeting the requirement of the Audit Ordinance and of Rule 72 of the Rules of Procedure of the Legislative Council that the Reports be tabled within three months of the Director of Audit's Reports being laid.

2. **The Government Minute** The Government Minutes in response to the Committee's Report Nos. 30 and 31 were tabled in the Legislative Council on 5 May 1999. The Committee will refer to matters arising from these Minutes in their next Report.

IV. COMMITTEE PROCEEDINGS

Consideration of the Director of Audit's Report tabled in the Legislative Council on 21 April 1999 As in previous years, the Committee did not consider it necessary to investigate in detail every observation contained in the Director of Audit's Reports. They therefore selected only eight chapters in the Director of Audit's Report No. 32 which, in their view, referred to more serious irregularities or shortcomings. It is the investigation of those chapters which constitutes the bulk of this Report. The Committee have also sought clarification from the Administration on some of the issues raised in the remaining two chapters of the Director's Report. The Administration's replies have been included in this Report.

2. **Meetings** The Committee held 26 meetings, including 11 public hearings. During the public hearings, the Committee heard evidence from a total of 60 witnesses including ten Bureau Secretaries and 16 Heads of Department. The names of the witnesses are listed in ***Appendix 3*** to this Report. A copy of the Chairman's Introductory Remarks at the first public hearing held on 4 May 1999 is in ***Appendix 4***.

3. **The 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 their deliberations on the relevant chapters of the Director of Audit's Reports, are set out in Chapters 1 - 12 below.

4. A verbatim transcript of the Committee's public proceedings will be placed in the Library of the Legislative Council for inspection by the public.

5. **Acknowledgements** The Committee wish to record their appreciation of the co-operative approach adopted by all the persons who were invited to give evidence. In addition, the Committee are grateful for the assistance and constructive advice given by the Secretary for the Treasury, the Legal Adviser and the Clerk. The Committee also wish to thank the Director of Audit for the objective and professional manner in which he completed his Report, and for the many services which he and his staff have rendered to the Committee throughout their deliberations.

Chapter 1

Acceleration of works in the Strategic Sewage Disposal Scheme Stage I

The Strategic Sewage Disposal Scheme (SSDS) Stage I comprises six sewage tunnels to collect and transfer sewage from the urban area in Kowloon and north east Hong Kong Island to the new centralized sewage treatment works on Stonecutters Island for treatment.

2. The Committee understood that a multi-contract arrangement had been adopted for the SSDS Stage I project. The construction of production shafts, which would be used for the subsequent construction of the sewage tunnels, and the foundation works for two pumping stations were included in two advance contracts (i.e. Advance Contracts A and B). These two contracts were awarded respectively in June and July 1994 with the scheduled completion dates of May and April 1995. Main Contracts C and D, which were for the construction of the six sewage tunnels, were awarded in December 1994 to one single contractor (i.e. Contractor X). The scheduled completion dates of Main Contracts C and D were April and May 1997 respectively.

3. The Committee noted that under the multi-contract arrangement, the timely completion of the production shafts and the foundation works for the pumping station of the two advance contracts was essential. Without their completion, the construction of the sewage tunnels and other works under the two main contracts could not begin. However, due to the delay in the completion of the production shafts and other works under the advance contracts, some sites could not be handed over to Contractor X on time. As a result, acceleration measures had to be adopted on two occasions for the two main contracts in order to mitigate the delay. In mid-1996, Contractor X unilaterally suspended works in all six tunnels and sought to re-negotiate the terms of the two contracts. In the event, the Government forfeited the two contracts and re-entered the sites in December 1996. To date, the works under the main contracts have not been completed. The contractor is in dispute with the Government on the correctness of the Government's forfeiture and re-entry action. The contractual disputes are being resolved by arbitration.

4. The Director of Audit had conducted a review to ascertain:

- whether there were deficiencies in the contract arrangement for the letting of the advance contracts;
- why the acceleration measures were required in the main contracts; and
- whether there was room for improvement in project administration.

Acceleration of works in the Strategic Sewage Disposal Scheme Stage I

5. The Committee recalled that in the Director of Audit's Report No. 24 of March 1995, the subject concerning the unsatisfactory contract arrangements in a multi-contract project for the construction of water treatment and transfer facilities in Au Tau, Yuen Long had been raised. The Committee had then expressed concern in their Report No. 24 of July 1995 that the risk of awarding multiple contracts for complex waterworks project had not been critically assessed at an early stage. The Committee had also recommended that realistic time should be allowed in contracts as a buffer for contingencies. Against this background, the Committee asked whether the Administration had adopted the measures proposed in the Committee's Report No. 24.

6. In reply, **Mr KWONG Hon-sang**, **Secretary for Works**, said that:

- in dealing with major works projects, the Administration had all along adopted the approach suggested in the Committee's Report No. 24;

- the timeframe for implementing works projects would not be prolonged deliberately as there would be cost implications;

- in deciding the timeframe, due regard would be given to the nature and complexity of the projects in question, as well as past experience;

- some allowance for delay had been made in the SSDS Stage I contracts. However, the delay turned out to be longer than expected; and

- as there were considerable underground works in the SSDS Stage I project, the difficulties involved might be greater than those in other projects.

7. Regarding the letting of advance contracts, the Committee noted paragraph 13 of the Audit Report which revealed that in April 1993, after taking into account the need to minimise contract interfaces and to separate works of different nature, the preliminary design consultants had recommended that the sewage tunnel works and the related shaft works should be constructed under the same contracts. The Committee asked about the basis for the decision to split the SSDS Stage I works into advance and main contracts, which was contrary to the preliminary design consultants' recommendation. The **Secretary for Works** said that:

- it was a common arrangement for advance works to be carried out in major works projects and there had been many successful cases, such as the Tsing Ma Bridge and the Tsing Ma Interchange Projects; and

- when advance works were arranged, risk assessments would be conducted to ascertain whether the advantages would outweigh the extra risks involved, and the same approach had been adopted in the SSDS Stage I project.

8. **Mr J Collier**, **Director of Drainage Services**, supplemented that:

- in July 1993, the engineering consultants advised that while the main tunnel works could only be tendered in mid-1994 for commencement at the end of 1994, an early start on the shaft works for the sewage tunnels and the foundation works for the Stonecutters Island Sewage Treatment Works was possible because of the relatively simple design of the works, and the fact that no gazetting was required;

- early commencement of those works would help to remove the shaft works, the foundation works and the tunnel works from the critical path of the construction programme; and

- six months were gained on the overall programme in the first instance by the decision to go for the advance works as Advance Contracts A and B eventually commenced in June and August 1994 respectively, whilst Main Contracts C and D only commenced in January 1995.

9. Regarding the delay in the completion of the works under the advance contracts, the Committee enquired whether the delay was caused by deficiencies in the site investigation works conducted by the preliminary design consultants. The **Secretary for Works** and the **Director of Drainage Services** said that:

- both Advance Contracts A and B had encountered difficulties with the sinking of deep shafts, as the actual ground conditions encountered by the two contractors during excavation of the shafts were very different from those predicted by the bore log information obtained from the site investigation;

- the Geotechnical Engineering Office considered that the highly variable and abnormal geological conditions encountered were unexpected; and

- with the benefit of hindsight, as a lot of underground works was involved in this project, more site investigation should have been carried out.

Acceleration of works in the Strategic Sewage Disposal Scheme Stage I

Upon request, the **Secretary for Works**, in his letter of 17 December 1998 in ***Appendix 5***, provided the Committee with details of the site investigation conducted by the preliminary design consultants and the geotechnical problems causing the delay in the advance contracts.

10. The Committee noted from paragraph 20 of the Audit Report that liquidated damages (LD) had been deducted from the payments to the two contractors of Advance Contracts A and B, as they could not complete the works under the contracts within the stipulated time. However, LD deducted were subsequently reimbursed to the two contractors. The Committee asked whether the contractors were responsible for the delay and what the justifications for the reimbursement were. In his letter of 17 December 1998 in ***Appendix 5***, the **Secretary for Works** said that in both cases, due to the absence of sufficient supporting evidence and information, the Engineer at first considered that the contractors should be responsible for the delay and LD were therefore deducted. However, after receiving more evidence, the Engineer was satisfied that for Advance Contract A, the highly variable and abnormal geological conditions encountered constituted a special circumstance based on which an extension of time was awarded. For Advance Contract B, having assessed the supplementary information submitted by the contractor, the Engineer considered that the contractor was entitled to an extension of time due to the substantial increase in the bad ground conditions encountered. Hence, LD which had been deducted earlier from the payments were subsequently reimbursed to the contractors.

11. The Committee understood that as a result of the delay in the completion of the works under the advance contracts, acceleration measures were adopted in August 1995 and January 1996 at a cost of $99 million and $44.4 million respectively in order to achieve the target date of 30 June 1997 for the commissioning of the SSDS Stage I. The Committee were particularly concerned about the additional acceleration measures adopted in January 1996 for Main Contract D to mitigate the delay in Advance Contract A.

12. According to paragraph 38 of the Audit Report, the proposal to adopt additional acceleration measures for Main Contract D was circulated vide Discussion Paper No. WC 1/96 by the Drainage Services Department (DSD) for consideration by the Sewage Services Trading Fund Works Committee (SSTFWC). In response to the Discussion Paper, some members of the SSTFWC had expressed concerns about the additional acceleration measures. The Environmental Protection Department (EPD) had reservations about the effectiveness of the acceleration proposal because there were considerable risks that delays would occur to other critical contract works, thereby totally negating the benefit of the proposed acceleration measures. These risks included the possible delay in the completion of the Stonecutters Island Main Pumping Station, uncertainty in completing the electrical and mechanical works for the

sedimentation tanks of the Stonecutters Island Sewage Treatment Works by June 1997 and possible delay in other portions of the tunnel works. The EPD considered that it remained uncertain that the target commissioning could be achieved after the adoption of the additional acceleration measures, and technically it seemed premature to decide on the acceleration proposal. However, the Department would have no objection to the acceleration proposal if it was deemed to be necessary for other overriding reasons (e.g. political consideration).

13. The Committee noted that the Business Manager of the DSD, another member of the SSTFWC, had said that he had doubts about the wisdom of trying to keep to an increasingly unrealistic deadline, and that the expenditure on the acceleration measures did not add anything to the quality or condition of the project itself.

14. As the additional acceleration measures were eventually adopted despite the concerns expressed by the SSTFWC members, the Committee asked whether the target commissioning date of 30 June 1997 of the SSDS Stage I had to be adhered to due to political consideration. The **Secretary for Works** said that no political consideration had been taken into account. He also said that:

- as the Administration was very concerned about the water quality in Victoria Harbour, it was hoped that the SSDS Stage I could be completed as soon as possible so that the water quality of the inner harbour would be improved. At the time the target completion date of 30 June 1997 was set, the target was considered achievable;

- the SSDS Stage I included more than 40 component projects and the goal was to complete them at around the same time so that the whole sewage treatment works could be commissioned; and

- therefore, when difficulties were encountered in individual projects, acceleration measures had to be adopted in order that the SSDS Stage I could still be completed by the target date.

15. The Committee asked whether the Secretary for Works had received any instructions that the SSDS Stage I had to be completed by 30 June 1997 irrespective of the cost involved. The **Secretary for Works** replied that there was no such instruction. The fact that he was still in post although the SSDS Stage I could not be completed by the target date, and Main Contracts C and D had to be forfeited proved that no political consideration had come into play.

Acceleration of works in the Strategic Sewage Disposal Scheme Stage I

16. At the Committee's request, in his letter of 8 February 1999 in ***Appendix 6***, the **Secretary for Works** set out the reasons for adopting the additional acceleration measures. He explained that the decision was made in view of the overall comments made by members of the SSTFWC and further discussion of the issue at the meeting of the High Priority Programme Project Co-ordination Committee. The prevailing view of members of the two Committees was that the additional acceleration measures should be adopted for the following reasons:

- the completion of the SSDS Stage I would definitely be delayed beyond July 1997 if the additional acceleration measures were not adopted. To allow the whole SSDS Stage I to retain a reasonable chance of being commissioned as programmed, it was necessary to proceed with the acceleration measures;

- the achievement of the originally scheduled commissioning of the SSDS Stage I would have the intangible benefit of an earlier provision of primary treatment to the sewage collected from the SSDS Stage I catchment prior to its discharge into Victoria Harbour; and

- even if the additional acceleration measures were not adopted, the Government would still have to bear an estimated cost of $15.9 million which was the amount of possible claims by the contractors concerned, hence the net cost of the acceleration measures was not as high as $44.4 million.

17. The Committee also asked whether, with hindsight, the Administration considered that the concerns expressed by some members of the SSTFWC were valid. The **Secretary for Works** said that if there had not been any delay in the tunnel works, the SSDS Stage I could have been commissioned by mid-1997.

18. The Committee noted from paragraph 50 of the Audit Report that, at the time of considering whether or not to adopt the additional acceleration measures in January 1996, there were already indications that even if the acceleration works and the sewage tunnel works proceeded as planned, the target commissioning date of the SSDS Stage I would not be achieved. The Committee asked why the additional acceleration measures were still adopted. In his letter of 17 December 1998 in ***Appendix 5***, the **Secretary for Works** explained that although there were signs in January 1996 that completion of other non-tunnel works could also be delayed beyond June 1997, it was considered that measures could still be implemented in the 17 months between then and June 1997 to ensure completion of these works by the target date. Acceleration measures were considered later on for the construction of the

Stonecutters Island Main Pumping Station and for the manufacture of the electrical and mechanical equipment for the sedimentation tanks.

19. When invited to comment on the Secretary for Works' explanation above, the **Director of Audit** said in his letter of 12 January 1999 in ***Appendix 7*** that:

- some members of the SSTFWC had earlier expressed concerns that there were considerable risks of delay in other critical contract works. The fact that further acceleration measures had to be considered in respect of the non-tunnel works proved that the concerns of some of the SSTFWC members were valid; and

- in Discussion Paper No. WC 1/96, the SSTFWC was not informed of the intention of adopting further acceleration measures for the non-tunnel works. Without such critical information, the SSTFWC would not have been aware of the full financial implications and consequences of implementing all acceleration measures to achieve the target commissioning date of 30 June 1997.

20. The Committee noted from the Audit Report that Discussion Paper No. WC 1/96 was circulated on 11 January 1996 and the SSTFWC was requested urgently to advise the DSD of its decision on whether to adopt the proposed acceleration measures before noon of 12 January 1996. The Committee asked whether it was a normal practice to allow the SSTFWC only one day to consider a proposal. In reply, the **Secretary for Works** said that:

- it was not a normal practice for the SSTFWC to have to make a decision in such a short period of time;

- actually, before the paper was submitted, the SSTFWC had already had some discussion on the matter. Hence, it was not true that the members were only aware of the matter upon receipt of the paper; and

- there was urgency in the matter because the acceleration measures required the procurement of an additional tunnel boring machine for which Contractor X would hold a right of first priority to procure only up to 12 January 1996.

21. With regard to the procedure for obtaining additional funding approval, the Committee noted from paragraph 57 of the Audit Report that the DSD had not obtained prior approval for an increase of the approved project estimates from the SSTFWC before Contractor X was instructed to implement the acceleration measures in August 1995 and January 1996. According to paragraph 65(f) of the Audit Report, the Director of Drainage

Services said that a "deemed approval" of the increase in the additional funding for the acceleration measures had been obtained. However, noting that in February 1996 the SSTFWC asked for further justifications for the adoption of the additional acceleration measures before giving retrospective approval for the increase in the approved project estimates, the Committee questioned whether the view that "deemed approval" had been obtained was justifiable.

22. The **Secretary for Works**, in his reply dated 8 February 1999 in ***Appendix 6***, recognised that it was a procedural oversight. He explained that the additional acceleration measures as described in Discussion Paper No. WC 1/96 were deliberated and finally approved by the SSTFWC. They were the same members who would be approving the increase in the approved project estimates. It was therefore taken at the time that "approval" for the increase in the additional funding had already been obtained. He stressed that the consideration and decision to adopt additional acceleration measures were made under great time pressure.

23. On the question of the provision of information to the Legislative Council, the Committee noted from paragraph 62 of the Audit Report that in 1994 the Administration undertook to give quarterly reports to the Legislative Council on the progress of capital projects under the Sewage Services Trading Fund (SSTF). The Legislative Council also requested that the quarterly reports should include a full report of what had been done and the justifications for such actions. However, the quarterly progress reports from 1 July 1995 to 31 March 1998 only contained information on the delay and the changes in the approved project estimates of the SSDS Stage I project whilst information about, and justifications for, the adoption of the acceleration measures at a cost of $143.4 million were not provided. Against this background, the Committee considered that the information provided to the Legislative Council in this regard was inadequate. In response, the **Secretary for Works** said that:

- for normal works projects, the approved project estimates would not be exceeded without the prior approval of the Finance Committee of the Legislative Council. The Administration would also report changes in the approved project estimates to the Finance Committee;

- however, it was the Administration's understanding that there was no need to report the acceleration measures and the amount involved to the Legislative Council on an item-by-item basis because the SSDS Stage I was a works project under the SSTF into which a lump sum of $6.8 billion had been injected; and

- moreover, the Administration was given the flexibility to divide the lump sum into smaller projects for the completion of the whole SSDS Stage I project, and the cost of the acceleration measures only constituted a small percentage of the $6.8 billion.

24. Responding to the Committee's request that full information about the SSDS Stage I be reported to the Legislative Council in future, the **Secretary for Works** said that in view of the uniqueness and complexity of the SSDS Stage I project and the fact that the SSTF had been closed following the resolution passed by the Provisional Legislative Council on 31 March 1998, the Administration was prepared to report the project's progress and financial position to the Legislative Council on a regular basis.

25. At the request of the Committee, the **Secretary for Works** provided an information paper, in ***Appendix 8***, setting out the current position of the SSDS Stage I. In summary, due to the delays in the completion of the deep tunnel collection system, the sewage treatment works commissioned in May 1997 was now giving treatment to about 25% of the projected sewage flow. After the forfeiture of Main Contracts C and D in December 1996, the completion of the remaining works were re-let in three separate contracts, with two tunnels in each contract. These contracts were awarded in stages from mid-1997 to early 1998. Upon award of the contracts, all the three contractors had actively resumed the tunnel completion works. Despite the difficult ground conditions encountered in the tunnel from Tsing Yi to Stonecutters Island, it was estimated that all tunnels under the SSDS Stage I would be completed in 2000.

26. **Conclusions and recommendations** The Committee:

- find it appalling that:

  (i) given the substantial delay of the Stage I of the Strategic Sewage Disposal Scheme (SSDS), the impact of the delay on the later stages of the Scheme, the continuing deterioration of the water quality in Victoria Harbour and the fact that the Government is still engaged in arbitration with the original tunnel contractor, the final cost of the SSDS Stage I is still unknown;

  (ii) despite the adoption of acceleration measures at a total estimated cost of $143.4 million on two occasions, the SSDS Stage I still lags far behind the original schedule for commissioning in June 1997 and is not yet

completed to-date, all proving that it is an expensive error to try to beat an unrealistic deadline; and

(iii) the decision to adopt the additional acceleration measures was pushed through the Sewage Services Trading Fund Works Committee (SSTFWC) by allowing it only one day to consider the matter and not informing it of the possibility of partial commissioning of the SSDS Stage I even if the measures were not adopted;

- express dissatisfaction that the chairman and members of the SSTFWC have not performed their duties in a responsible manner as they did not seek additional information even when some members raised concerns over the effectiveness of the additional acceleration measures and the shortage of vital information. Neither have they queried the short time allowed for them to consider the acceleration proposal;

- reject the Secretary for Works' assertion that no political consideration had been taken into account in deciding to adopt the additional acceleration measures so as to achieve the target commissioning date of 30 June 1997;

- consider that the Administration's hasty adoption of the additional acceleration measures leads to an impression that the project has to be completed by 30 June 1997 at all cost, and that the public's doubt that political consideration was at play cannot be dispelled;

- express concern that further to the Committee's Report No. 24 of July 1995 concerning the unsatisfactory contract arrangements in a multi-contract project for the construction of water treatment and transfer facilities in Au Tau, Yuen Long, this is another case in which the risk of awarding multiple contracts for complex project involving the handover of sites from one contractor to another had not been critically assessed at an early stage;

- reiterate that the works department concerned should critically assess the risk and cost of the contract arrangement for time-critical projects, particularly those projects which involve the letting of advance contracts, so as to ensure that the most cost-effective contract arrangement will be adopted;

- note the assurance of the Secretary for Works that he will advise all works departments of the high risk of awarding similar multiple contracts and his reiteration that in reviewing the Works Bureau procedures, he will take into account the Audit recommendations that the works department concerned

should critically assess the need for adopting acceleration measures and should also consider other options;

- acknowledge the statement made by the Secretary for Works and the Director of Drainage Services that more site investigations should have been carried out for this project as considerable underground works were involved;

- recommend that in future more site investigations should be conducted for projects involving underground works;

- acknowledge the Secretary for Works' admission that it was a procedural oversight that prior approval for an increase in the approved project estimates had not been obtained from the SSTFWC before the contractor was instructed to adopt the acceleration measures;

- recommend that additional funds for public works projects involving substantial costs, risks and complexity should only be committed after prior approval has been obtained;

- express dismay that the Administration did not provide the Legislative Council with information about, and the justifications for, the adoption of the acceleration measures at a cost of $143.4 million in the quarterly progress reports from 1 July 1995 to 31 March 1998 submitted to the Environmental Affairs Panel of the Legislative Council;

- recommend that, similar to normal capital works projects for which the Administration has to report to the Finance Committee increases in project estimates which exceed the limits of delegated authority specified by the Finance Committee, for works projects under trading funds, the Administration should report deviations from project estimates to the Council's relevant Panels;

- note that there is still widespread public concern about the SSDS and that the other stages of the Scheme are currently being followed up by the Legislative Council; and

- suggest the Director of Audit to conduct, upon the conclusion of the SSDS Stage I, similar investigations to ascertain the full cost of the project and the factors leading to the budget overrun.

Chapter 2

Footbridge connections between five commercial buildings in the Central District

The Committee noted the Director of Audit's review on the effectiveness of the Government in implementing the planning strategy for pedestrians in the construction of five footbridges in Central District. Audit found that:

- the Building Authority had granted to the owners of three commercial buildings a total bonus area of 3,296 square metres and a total exempted area of 1,902 square metres in exchange for the provision of footbridges. The market value of the bonus area and the exempted area as at June 1998 was $350 million and $359 million respectively;

- however, none of the footbridges had been built;

- there were inadequacies in the legal documents resulting in difficulties in requiring the construction of Footbridge A between Building I (i.e. China Building) and Building II (i.e. Entertainment Building) in connection with the redevelopment of the two sites; and

- there was room for improvement in the procedures for granting bonus and exempted areas in connection with the provision of footbridge connections.

2. A map prepared by Audit showing the location of the five commercial buildings and the five planned footbridges is in ***Appendix 9***.

Footbridge A

3. When the redevelopment of the Building I site was considered in 1975, the owners of the site accepted the Government's proposal of providing an above-street level pedestrian walkway. The Building Authority then granted to the owners a bonus area of 1,198 square metres, and an exempted area of 1,023 square metres on the ground floor and the mezzanine floor of Building I. However, the Deed of Dedication and the Deed of Variation, executed in 1985 to designate particular areas in the Building I site for public use, did not cover the public walkway areas on the mezzanine floor, or require the owners of the Building I site to connect the public walkways at the mezzanine floor level to any footbridge. When the redevelopment of the Building II site was considered in 1987, the owners of the Building I site refused to grant permission for linking Footbridge A to Building I. According to the advice of the Legal Advisory and Conveyancing Office (LACO) of the Lands Department in 1988, the Government had no power to enforce the footbridge link because such linkage had not been specifically provided for in the lease of the Building I site, nor in the several Deeds of Variation in existence. Against this background, the Committee asked whether there was an oversight on the part of the Government and whether anybody should be held responsible.

Footbridge connections between five commercial buildings in the Central District

4. **Mr R D Pope**, **Director of Lands**, said that:

- there was an oversight as far as the Deed of Variation was concerned. The legal document did not provide for the owners of the Building I site to connect the public walkways at the mezzanine floor level to any footbridge;

- this oversight had been corrected in other Deeds of Variation of a similar nature and for the footbridge linking Building III (i.e. Central Tower) and Building IV (i.e. Central Building); and

- it was difficult to find any individual who was personally responsible, as the matter had been discussed at various conferences where a number of people were involved. Somebody should have noticed the oversight, but somehow this was not the case.

5. Referring to the traffic accident in which three people were killed and ten people were seriously injured at the junction of Wyndham Street and Queen's Road Central in August 1997, the Committee were concerned that the absence of an elevated passageway for pedestrian movement for that area would affect the safety of pedestrians and could lead to more accidents. The Committee asked whether disciplinary action should have been taken against the Government officials responsible for the omission in the legal documents, resulting in the delay in the construction of the proposed footbridges. The **Director of Lands** replied that:

- the Deeds were prepared in the District Lands Office, discussed at the District Lands Conference and checked by LACO. There was no doubt that when these documents were prepared, the parties concerned believed that all requirements had been incorporated. The omission regarding landing right for the footbridge only surfaced subsequently;

- the Lands Department had its own in-house lawyers to advise on matters relating to land conveyancing. The then Attorney General's Chambers was not involved in preparing the legal documents; and

- as he was not the Director in the 1970s, he was not in the position to give any personal views on what had taken place at that time. However, he would carry out a detailed investigation if the Committee wished to find out whether any persons were at fault.

6. **Dr CHOI Yu-leuk**, **Director of Buildings**, added that:

- in the 1970s, the Buildings Department was not separate from the Lands Department. The then Buildings and Lands Department was responsible for handling the matter under discussion; and

- in the past year, the Buildings Department had reviewed the procedure for approving concessions and had developed a set of clear guidelines to ensure that the oversight as identified in the footbridge case would not recur.

7. In view of the fact that the owners of the Building I site had benefited from the concessions for more than 20 years, the Committee asked whether the Government had tried to recover any mesne profits or rent. The **Director of Lands** said that legal advice sought in this respect confirmed that there was no provision to allow the Government to claim mesne profits or rent.

8. In order to ascertain whether the owners of the Building I site had ever given any undertaking in respect of connecting Building I with any future footbridge, the Committee asked the Administration to confirm whether the description in paragraph 18 of the Audit Report, in particular the statement made by the Authorised Person, was accurate. The Committee also asked to be provided with copies of the relevant correspondence and minutes of meetings which could shed light on the past discussions between the Government and the owners. The **Director of Lands** undertook to provide the Committee with the relevant records. He confirmed that there was an understanding back in 1975-76 that a footbridge would be built to land on Building I. The **Director of Buildings** also said that he was not personally involved in the discussions in 1975-76. Based on a review of all the relevant documents, he could confirm that the description in paragraph 18 about the understanding was accurate. The **Director of Planning** said that his department was not a party to the negotiation because the issue had gone beyond the planning stage.

9. In reply to the Committee's question on the current position of the matter, **Mr Patrick LAU Lai-chiu**, **Acting Secretary for Planning, Environment and Lands**, said that:

- since the traffic accident in August 1997, the issue relating to the proposed footbridges had become a matter of public interest. The Provisional Central and Western District Board had set up a concern group on the footbridge system in

Central District. Government officials had attended the meetings of the concern group;

- the Government had met with the owners of the Building I site to discuss the possibility of connecting Footbridge A to Building I, notwithstanding their right to reject the proposal because of the omission in the legal documents. However, there had been little success; and

- as far as he knew, one political party had also tried in vain to convince the owners of the Building I site to receive the footbridge.

10. As the matter had dragged on for over two decades, the Committee questioned whether the Government had been sufficiently proactive in its negotiation with the owners of the Building I site. The Committee also asked who were representing the Government in the negotiation and whether all documents pertaining to the negotiation had been considered by the parties concerned. The **Acting Secretary for Planning, Environment and Lands** said that:

- legal advice had been sought and confirmed that the Government had no power to require the owners of the Building I site to receive the footbridge. In the circumstances, the Government had to abide by the law in the negotiating process and could not impose any instructions on the other party; and

- though the Planning, Environment and Lands Bureau was not a party to the negotiation, he could assure the Committee that the government officials concerned had exhausted all relevant arguments, including public opinion as well as political and moral considerations, to persuade the owners of the Building I site to receive the footbridge. They had also presented all relevant information at the meetings.

11. Upon the request of the Committee, the **Acting Secretary for Planning, Environment and Lands** agreed to provide a list of the government officials involved in the negotiation, a schedule of the meetings held and a summary of the discussions at the meetings. The information was provided by the **Director of Lands** in his letter of 16 January 1999 in ***Appendix 10***.

12. The Committee asked whether it was still possible for the Government to pursue the matter further, having regard to the fact that the Outline Development Plans (ODPs) of

Central District had provided for the construction of Footbridge A connecting Buildings I and II and that the requirement should have been included in the relevant documents when the Building Authority granted the bonus area and the exempted area. The **Director of Lands** said that:

- it should be recognised that the land leases had been granted before the proposal of providing footbridges was brought up;

- there was no problem in stipulating the requirement for the provision of footbridges in the leases of newly reclaimed and newly developed areas. The problem existed in cases where old leases were involved;

- though the ODPs had provided for the construction of the proposed footbridges, they were not statutory plans and could not be enforced legally;

- the Government would try as far as possible to incorporate the construction of footbridges into the development plans submitted by developers. The Buildings Department would then consider granting concessions to owners of the sites for constructing and receiving the footbridges. The Lands Department was responsible for incorporating these concessions into the leases which were binding on the owners;

- in the present case, an error was made more than 20 years ago and the requirement had not been reflected in the legal documents; and

- the government departments concerned had taken appropriate measures to prevent the recurrence of similar incidents.

13. With reference to paragraphs 57 and 58 of the Audit Report, the Committee noted that even in March 1998, i.e. seven months after the tragic accident in Wyndham Street, the Chief Secretary for Administration's Committee was advised that there were no statutory requirements for private developers to incorporate footbridge facilities into their developments and that there was no provision in any ordinance which required the construction of such pedestrian walkways on public safety grounds. The Chief Secretary for Administration's Committee later concluded that the Government had never used statutory power to order building owners to provide outlets for footbridges as this would involve compensation. Consideration might be given to picking a good case to test the outcome. The need to pay compensation should not be an overriding obstacle. The Committee asked who gave the above advice to the Chief Secretary for Administration's Committee and whether the Administration had actually picked a case to test the outcome.

14. The **Acting Secretary for Planning, Environment and Lands** informed the Committee that:

- the advice to the Chief Secretary for Administration's Committee was given by the Transport Bureau; and

- in respect of the conclusion reached by the Chief Secretary for Administration's Committee, the Administration was still seeking legal advice as to whether the Government could invoke the Lands Resumption Ordinance and the Roads (Works, Use and Compensation) Ordinance to require the owners of the Building I site to receive the footbridge.

15. In paragraph 113 of the Audit Report, Audit recommended that the Government should consider the need for incorporating pedestrian footbridges shown in ODPs into the statutory Outline Zoning Plans (OZPs). The Committee asked whether this recommendation was feasible. The **Director of Planning** replied that the Administration had to be very careful in considering the need for incorporating pedestrian footbridges shown in ODPs into the statutory OZPs because the requirement would entail laborious legal procedures in finalising the design of the facilities and possibly subsequent amendments to the OZPs.

16. According to paragraph 42 of the Audit Report, the Central and Western District Board was informed in May 1994 that as the Government could not force the owners of the Building I site to provide the required landing, the majority view of the government departments concerned was to hold the matter in abeyance until the redevelopment of the Building I site took place. In order to ascertain whether the Government had taken a considered decision at that time, the Committee asked that they be provided with information on the "minority view" within the Administration and the rationale used by the "majority view" in making its case.

17. With regard to the Audit recommendation in paragraph 132 about the possibility of incorporating provisions for charging appropriate fees into the relevant Modification Letters and Deeds of Dedication if any future misuse of the exempted area was observed, the Committee asked whether the Administration would consider imposing penalties or fines if there were difficulties in charging a fee. The **Acting Secretary for Planning, Environment and Lands** undertook to provide additional information in writing on the two questions raised.

18. In his letter of 16 January 1999 in ***Appendix 11***, the **Acting Secretary for Planning, Environment and Lands** provided the Committee with the following information:

- the second inset of paragraph 42 of the Audit Report referred to the reply of 31 May 1994 from the then District Lands Officer/Hong Kong West to the Traffic and Transport Committee of the Central and Western District Board. The comment about the "majority view" was based on his consultation with the Legal Advisory and Conveyancing Office of the Lands Department, the District Planning Office/Hong Kong, the Transport Department, the Buildings Department and the Highways Department. The "minority view" was to invoke legislative powers to facilitate the construction of the footbridge; and

- the legal advice obtained was that a "fine" as suggested by the Committee could not be imposed contractually in the modification or dedication documents. Liquidated damages might be the proper legal remedy. These would be recovered from the owner in the event that the "dedicated or exempted areas" were not made available to the public. This proposal would be further examined by the Director of Lands and the Director of Buildings.

19. From the documents provided by the Director of Lands after the public hearing on 10 December 1998, the Committee noted that in a letter dated 29 January 1982, Wong & Ouyang & Associates (i.e. the Authorised Person) representing Woodhall Company Limitd. confirmed that there was no objection in principle to the proposed footbridge and connections from Building I across Queen's Road Central to Building II. The Committee asked whether any action had been taken to follow up the points raised in that letter and why the Government had not made use of the opportunity to take the matter forward. The **Director of Lands** said that:

- there was no doubt that correspondence had been exchanged in the early 1980s and the Authorised Person had indicated that his client would receive the footbridge. It was apparent that the undertaking had not been pursued because the legal document issued in 1975 had not included the requirement for the owners of the Building I site to receive the footbridge. At that time, there were still uncertainties about the redevelopment of the Building II site and the location for the landing of the footbridge in Building I; and

- the records in the Lands Department showed that nothing happened until late 1980s and early 1990s when the Building II site was proposed to be

redeveloped. There were discussions between the owners of the two sites. However, the negotiation was unsuccessful because the owners of the Building I site refused to grant permission for receiving the footbridge.

20. In his letter of 28 May 1999 in ***Appendix 12***, the **Secretary for Planning, Environment and Lands** set out in detail the reasons for not taking follow-up action since the letter of 29 January 1982, in particular why the Highways Office had not contacted the Authorised Person to discuss the engineering details of the proposed footbridge.

21. With reference to paragraph (b) of the Director of Lands' letter dated 16 January 1999 in ***Appendix 10***, the Committee noted that further to the letter of 29 January 1982, the Highways Department, in consultation with the Buildings Department, had examined the engineering details of the proposed footbridge. The Committee asked why the government departments were still examining the engineering proposals when it was known at that time that the owners of the Building I site had refused to receive the footbridge and that the proposal was also dependent on the redevelopment of the Building II site. The Committee also asked whether there was a waste of efforts and resources. The **Director of Lands** said that:

- it was probably because it had always been the intention of the Administration to construct the footbridge and the departments concerned were trying all the time to work towards this goal in spite of the obstacles. It could have been a waste of the Government's resources at that time because the Building II site was not redeveloped until the early 1990s; and

- however, it should be noted that there were discussions on the redevelopment of the Building II site as early as 1973. But the proposal was not pursued until the early 1990s. This was probably related to the changes in the economic situation in the 1970s and 1980s.

22. The **Director of Buildings** supplemented that:

- it was normal for owners of building sites to discuss with the Buildings Department the feasibility of their redevelopment plans even at a preliminary stage;

- in a letter dated 15 March 1973, the solicitor representing the owners of the Building I site informed the Buildings Department that there was a plan to

develop the Building I site together with the Building II site. The plan was shelved one or two years later and it was decided that the Building I site would be redeveloped independently. In the 1980s, the redevelopment of the Building II site was revived; and

- the ODPs had provided for the construction of footbridges in Central District. When the redevelopment plan for the Building I site was considered, the Government tried to make use of the opportunity to put the plan into action.

23. At the request of the Committee, **Mr Dominic CHAN Yin-tat**, **Director of Audit**, commented that:

- the Administration should have made use of the opportunities presented in 1982. But the proposal for the construction of Footbridge A was also dependent on the redevelopment of the Building II site; and

- he did not consider that the efforts made had necessarily been wasted because there had always been a possibility of Building II being redeveloped and the Government should have planned ahead for the provision of a footbridge linking Buildings I and II.

24. On the question as to whether the officials concerned were aware of the circumstances surrounding the redevelopment of the Building II site and whether efforts had been wasted, **Mr Gordon SIU Kwing-chue**, **Secretary for Planning, Environment and Lands**, said that he would check the correspondence around 1982 to find out what had actually happened at that time. According to the other records he had seen, it had always been the Government's intention to have an elevated pedestrian walkway built in the heart of Central District. At some stage, it was planned that a footbridge linking Buildings I and II should be built when these two buildings were redeveloped. The issue was discussed from time to time, but had never been incorporated in the legal documents. While he accepted the need for the discussions, he did not understand why the requirement was not stipulated in writing. He would check why this was the case.

25. The Committee reiterated their concern about the Administration's oversight in incorporating the requirement for the provision of Footbridge A in the Deed of Dedication and Deed of Variation in 1985 even though the owners of the Building I site had indicated in

1982 that they had no objection in principle to receiving the proposed footbridge. The Committee also queried:

- why the matter appeared to have been stalled after 1982 and was not revived until the Building II site was redeveloped in the early 1990s; and

- why the opportunity arising from the redevelopment of the Building II site, which should have been fully exploited, was once again lost.

26. The **Director of Lands** said that:

- according to the letter dated 5 February 1975, the Authorised Person indicated that his clients reluctantly accepted the proposals for the construction of the footbridge. The matter was discussed the following day i.e. 6 February 1975 at the Public Works Department Conference (PWDC);

- the discussion at the PWDC appeared to be the turning point because it was specifically pointed out at this conference that the owners could not be required to receive the footbridge. The conference had acted as if the letter had not been seen or received and the offer given by the Authorised Person had not been taken into account;

- the PWDC's decision formed the basis for the subsequent actions taken by the Administration;

- as the Deed of Variation executed in 1975 did not include the requirement for the footbridge, no opportunity existed in 1982. The discussions at that time were conducted on a friendly basis because legally the Government could not require the owners of the Building I site to receive the footbridge; and

- he was not in the position to comment on why the Government did not make use of the opportunity in 1982 to require the Deed of Variation to be modified.

27. Subsequently, in his letter of 28 May 1999 in ***Appendix 12***, the **Secretary for Planning, Environment and Lands** informed the Committee that the Director of Lands and the Director of Buildings had conducted a thorough search of the relevant files. No record of the meeting of 3 February 1975, which was referred to in the letter dated 5 February 1975, could be found. The minutes of the PWDC meeting held on 6 February 1975 were available. A copy of the minutes, together with the list of attendees, were forwarded to the Committee.

These are attached in ***Appendix 13***.

28. The Committee noted that in a minute issued on 20 February 1975 (in ***Appendix 14***) i.e. 15 days after the PWDC, the Principal Government Land Agent instructed the Chief Estate Surveyor/Property Management of the Public Works Department to issue a full basic terms letter, i.e. the Modification Offer Letter, to the Authorised Person. If the Principal Government Land Agent had attended the meeting on 3 February 1975, which was mentioned in the letter of 5 February 1975, and the PWDC on 6 February 1975, he should have been aware of the discussions between the Authorised Person and the Government and should not have omitted the offer given by the Authorised Person in his letter of 5 February 1975. In this regard, the Committee asked:

- whether the omission was due to miscommunication between the Principal Government Land Agent who issued the instruction and the Chief Estate Surveyor who drafted the Modification Offer Letter; and

- whether there was an internal procedure to check the out-going letters which formed the basis for the subsequent legal documents.

29. The **Director of Lands** said that:

- the Principal Government Land Agent was present at the meeting with the Authorised Person on 3 February 1975 and the PWDC on 6 February 1975;

- the Principal Government Land Agent had acted according to the decision of the PWDC on 6 February 1975 and had followed the normal procedure;

- it was not a normal procedure for the person who issued the drafting instruction to check the out-going letters, unless it was related to a very important matter. In the present case, the Chief Estate Surveyor had issued the letter according to the instructions from the Principal Government Land Agent. He had also checked the subsequent Deed of Variation which was issued on 17 March 1975;

- the problem seemed to have arisen from the fact that the PWDC had not been informed of the Authorised Person's letter. It was quite clear that an error was made between the letter from the Authorised Person on 5 February 1975 and the instructions given to the Chief Estate Surveyor. The offer of the Authorised Person was certainly missed out somewhere. The Director did not know the reason for that and could not comment as to whether the Principal Government

Land Agent was at fault; and

- he believed that the attendees of the meeting on 3 February 1975, including the Principal Government Land Agent, should have retired by now.

30. In the light of the error made in the present case, the Committee were concerned as to whether the internal checking procedure in the Lands Department was adequate. The Committee asked what could have been done to detect the mistake. The **Director of Lands** said that:

- the letter of 5 February 1975 from the Authorised Person should have been tabled at the PWDC. If that step was omitted, the people who were at the PWDC and who had also attended the meeting on 3 February 1975 should have made reference to the discussions at that meeting;

- the normal procedure was that the officer who attended the meeting would issue a set of firm instructions to his staff to prepare a document in accordance with the agreement reached at the meeting. The officer should also send a letter to the other party, for example, the Authorised Person, to confirm what they had agreed at the meeting; and

- the Lands Department had a procedure of checking and counter-checking the legal documents.

31. On the same issue, the Committee asked:

- when and how the Administration first found out there was no specific stipulation in the legal documents about landing right for the footbridge;

- whether it had taken any remedial action at the time to address the problem;

- why the matter had not been investigated earlier and why timely disciplinary action had not been taken against the officers concerned;

- whether disciplinary action could still be taken against those officers who had retired from public service but had subsequently been proved to have made a gross error of judgement or omission in carrying out their duties during their tenure of service; and

- whether this was an isolated case and whether the Administration had reviewed other cases which might have similar omissions.

32. In his letter of 25 June 1999 in ***Appendix 15***, the **Secretary for Planning, Environment and Lands** said that:

- there were no indications in the file records that questions had been raised as to why a requirement for connecting an elevated footbridge to Building I had not been specifically stipulated in the Deeds of Variation of the Building I site executed between 1975 and 1978. However, notwithstanding the absence of the specific stipulation in the Deeds, the Chief Estate Surveyor/Valuation proposed in August 1981 to the Authorised Person for the Building I site that a footbridge be connected to Building I. The latter re-affirmed in writing in January 1982 that there was no objection in principle to the proposed footbridge and connections from Building I to Building II. The matter did not progress further between 1982 and early 1988 mainly because the redevelopment of Building II had been deferred due to the prevailing property market conditions;

- in March 1988 when the redevelopment proposal for Building II was re-activated and the Authorised Person for the Building II site reported difficulties in obtaining consent from the owners of the Building I site for a footbridge connection, the Chief Building Surveyor/Hong Kong 1 sought advice from the Registrar General (Land Officer/Hong Kong) as to whether the provisions in the Deeds in question had legally empowered the Government to enforce the footbridge connection. The latter advised that the Government had no power to enforce the linkage as such linkage had not been specifically provided for in the lease nor in the several Deeds of Variation in existence. The matter was discussed again at the Building Committee meeting on 26 April 1988. It was agreed that confirmation should be sought from other Government departments on their views and position in respect of the implementation of the intended elevated walkway system and the need for such a linkage across Queen's Road Central. Legal advice from the then Attorney General should also be sought;

- in March 1989, the then Buildings and Lands Department met the owners of the Building I site to seek the latter's agreement to the proposed footbridge connection. However, no favourable response was received. The Registrar General (Land Officer/Hong Kong) advised in October 1990 that his previous advice remained valid. Similar advice was also obtained from the Attorney General in early 1991;

- the Director of Buildings and Lands wrote to the owners of the Building I site on 19 February 1991 to invite the latter to a meeting to further discuss the matter. However, the solicitor representing the owners of the Building I site replied on 17 October 1991 that his client declined to take the matter forward. Notwithstanding the above, the departments concerned had continued to pursue the matter and explored various options of constructing the footbridge in question. Discussions between the Director of Lands and the owners of the Building I site were continuing;

- as to why the matter had not been investigated earlier, the Administration now considered it necessary to examine and take into account the details of the circumstances at the time. In this regard, the Director of Lands had written to those persons who were then incumbents of the posts concerned to seek information which would assist the Administration in ascertaining the facts of the case;

- in respect of disciplinary action, the advice of the Secretary for Civil Service was that an officer who had retired from the public service under the Government was no longer a public servant. The person was therefore not subject to any Government rules and regulations, including those on conduct and discipline. Under the Public Service (Administration) Order 1997 which provided for the authority and procedures to take disciplinary action against public servants, "public servants" were defined as "any person holding an office of emolument under the Government of Hong Kong Special Administrative Region, whether the office was permanent or temporary, and serving in a government bureau or department". As a retired officer was not a public servant holding an office of emolument under the Government and serving in a government bureau or department, the person was accordingly not subject to the disciplinary regulations as applied to serving officers; and

- the Director of Lands had reviewed all other cases involving the provision of footbridges and confirmed that the present case was an isolated case.

33. The Committee noted that in the letter dated 27 August 1981 from the Chief Estate Surveyor/Valuation to the Authorised Person, it was pointed out that no structural supports and loadings had been allowed for in Building I. The Committee asked whether Building I could actually support the footbridge structurally. The **Director of Buildings** said that:

- the Buildings Department had checked all of the approved plans and had visited the site. The conclusion was that the foundation of the building could actually

support the loading imposed by the footbridge. However, when Building I was built, a firm decision on the position and connection points of the footbridge had not yet been made. Some of the existing structures were not able to support the footbridge; and

- from an engineering point of view, there was no problem for the existing building to receive the footbridge because some remedial works could be carried out to transfer the loadings of the footbridge to the foundation of the building.

34. According to paragraphs 48 to 56 of the Audit Report, the Administration had also considered a number of options for the construction of Footbridge A. However, up to August 1998, no conclusion had been reached. In view of the fact that there were difficulties in connecting the footbridge to Building I, the Committee asked whether it was feasible to design the footbridge in such a way that it would land on the pavement outside the building. The **Secretary for Planning, Environment and Lands** said that it would be extremely difficult to find enough space on the pavement to accommodate the footbridge. The Administration had considered Theatre Lane as an option. However, this had to be carefully considered because Theatre Lane was only a narrow lane. The Administration still hoped that the footbridge could be connected to Building I.

35. The Committee noted that there had been a number of changes in the ownership of Building I over the years. From the correspondence provided by the Director of Lands, the Committee also noted that the Government had negotiated with various companies at different periods of time on the proposed construction of Footbridge A. The correspondence that the Committee referred to included:

- letter dated 27 August 1981 from the Chief Estate Surveyor/Valuation to Wong & Ouyang & Associates and the latter's reply dated 29 January 1982 to the Chief Estate Surveyor/Valuation;

- letter dated 19 February 1991 from the Director of Buildings and Lands to Trillium Investment Limited;

- letter dated 1 May 1991 from Woo, Kwan, Lee & Lo to the Director of Buildings and Lands; and

- letter dated 29 July 1993 from the Assistant Commissioner for Transport/Urban to Cheung Kong (Holdings) Limited.

The Committee were concerned as to whether the Administration had taken adequate steps to ensure that it was negotiating with the right parties and whether the undertaking given by the owners in 1975-76 was still binding on the subsequent owners of the site. The **Director of Lands** said that:

- the subsequent owners were bound by the original land grant and the Deeds of Variation issued thereafter; and

- the owners of the Building I site had never given any undertaking.

36. At the request of the Committee, **Mr Jimmy MA Yiu-tim**, **Legal Adviser of the Legislative Council**, informed the Committee that:

- according to information retrieved from the Land Registry, he had prepared a chart (***in Appendix 16***) showing the history of ownership of the Building I site since 1975. Woodhall Company Limited became the sole owner of Building I in May 1975;

- in 1982, there were three co-owners: Woodhall Company Limited, Wayhong (Bahamas) Limited and Trillium Investment Limited. Woodhall Company Limited was still the owner of a major portion of the building, i.e. a portion of the ground floor and all the other floors above the third floor; and

- the mezzanine floor, which was owned by Wayhong (Bahamas) Limited in 1982, was the relevant part of the building for receiving the footbridge.

37. The **Director of Lands** told the Committee that:

- if Woodhall Company Limited was not the owner of the mezzanine floor, then it was not a relevant party to the negotiation because it could not enter into any agreement in respect of the footbridge;

- as far as the Government was concerned, Wong & Ouyang & Associates was the Authorised Person for the footbridge project. The letter of 29 January 1982 was just the correspondence between the Authorised Person and the Chief Estate Surveyor/Valuation. It was not a negotiation per se; and

- in retrospect, the government officials at the time should have checked whether the companies were the registered owners at the time. However, he could not tell whether they had done this.

38. The Committee asked the Director of Audit whether he was aware that the Administration at that time was not clear as to whom they were negotiating with. The **Director of Audit** commented that it was possible that Wong & Ouyang & Associates was the Authorised Person of the whole group of companies. The Authorised Person could therefore be acting properly. But he agreed entirely that the Administration at that time should have checked the legal status of its negotiating partners.

39. At the request of the Committee, the Administration undertook to find out the relationship between Woodhall Company Limited and Wayhong (Bahamas) Limited in 1982. In his reply of 28 May 1999 in ***Appendix 12***, the **Secretary for Planning, Environment and Lands** advised the Committee that the company search records revealed that in 1982, two of the directors of Wayhong (Bahamas) Limited were also the directors of Woodhall Company Limited. In the same letter, he also informed the Committee that the present owners of the Building I site were Harley Development Incorporate, Trillium Investment Limited and Vember Lord Limited, all of which were wholly-owned subsidiaries of the Hutchison Whampoa Limited Group. The latter was the party involved in the recent discussions with the Government on the matter.

40. The **Secretary for Planning, Environment and Lands** further advised the Committee in his letter of 25 June 1999 in ***Appendix 15*** of the ownership of the different parts of Building I during the periods referred to in the correspondence set out in paragraph 35 above.

41. In respect of the current position of the matter, the **Secretary for Planning, Environment and Lands** informed the Committee that:

- the Government had not changed its stance regarding the provision of a pedestrian walkway system to improve pedestrian safety in Central District;

- technically, the construction of Footbridge A was feasible. Two connection points in Building I had been identified. However, the Buildings Department had yet to ascertain whether the construction of the footbridge would lead to other structural problems;

- though the Government had no legal power to require the owners of the Building I site to receive Footbridge A, it was considering whether there would be other provisions in law and past records that would shed light on how the matter could be taken forward. The Administration would proceed cautiously and would seek further legal advice in this respect. It would also ensure that it was negotiating with the right party;

- even if the footbridges were built, the problems relating to the pedestrian flow in the area might not be removed altogether. In the past few months, the Government had been considering an option, together with the Mass Transit Railway Corporation, of building an underground passage and shopping mall under Pedder Street and Queen's Road Central and connecting Buildings I, II, III, IV and V. The option was still at a preliminary stage and its feasibility would be studied; and

- the Government would pursue in parallel the options of footbridges and underground passage with a view to segregating the traffic and pedestrian movements in the area. As the matter was being actively pursued, there was no need to impose a time limit on the implementation of the proposals.

42. In paragraph (g) of his letter of 28 May 1999 in ***Appendix 12***, the **Secretary for Planning, Environment and Lands** set out the background and development of the Government's planning strategy for pedestrians in Central District. In the same letter, he also informed the Committee of the present position of the discussions on the possible options for the construction of Footbridge A. He said that:

- the Administration was exploring the feasibility of two options of constructing Footbridge A, the single-supporting column approach and the two-supporting column approach. The Director of Buildings had worked out the detailed preliminary design and the initial estimated costs for the two options;

- as the Department of Justice had confirmed recently that the owners of the Building I site could not be compelled to allow connection of the footbridge to the building, the Director of Lands had written to the Hutchison Whampoa Limited Group to seek their agreement to either of the above two options; and

- as regards the option of an underground pedestrian network along Queen's Road Central, the Mass Transit Railway Corporation had expressed interest in exploring the idea and was conducting a preliminary feasibility study in this regard. The study was expected to take about two months.

43. In reply to the Committee's enquiry as to when the owners of the Building I site would be in a position to decide on the proposed options, **Mr Raymond CHOW**, **Managing Director**, **Harley Development Incorporate** (a member of the Hutchison Whampoa Group and owner of Upper Basement, Ground and Mezzanine Floors of Building I), said in his letter of 15 June 1999 in ***Appendix 17*** that a reply had been given to the Director of Lands. While his company fully supported the idea of linking up China Building and Entertainment Building by some sort of convenient and safe means of passage for pedestrians, the footbridge proposals were found to be not feasible. However, his company would co-operate with the Government to seek a better solution.

Footbridge B

44. In view of the difficulties surrounding the Building I site, the Committee asked why the Administration had still granted the bonus area and exempted area to the Building II site in 1992 for connecting the footbridge to Building I. The Committee also asked whether the requirement of providing Footbridge A had been reflected in the lease conditions and whether it was binding on the subsequent owners. The **Director of Lands** and the **Director of Buildings** said that:

- the discussion with the owners of the Building II site was based on the town planning plans. While the negotiation with the owners of the Building I site was still outstanding, the Administration was of the view that it should seize every opportunity to pursue the construction of other footbridges. It was still hopeful that the difficulties with the Building I site would eventually be resolved. It was therefore necessary to incorporate the requirement in the lease conditions for Building II;

- in granting the bonus area and exempted area, the requirement for the construction of Footbridge A and Footbridge B had been clearly stipulated in the legal documents. The owners of the Building II site were fully aware that in addition to Footbridge A, they should also receive Footbridge B which would connect Building II to Building III. The subsequent owners were bound by these legal documents; and

- the plan of Footbridge B had been approved. The works permit was still being processed.

45. In response to the Committee's concern about whether the terms of the lease of the Building II site was precise enough to cover the new building to be erected on the Building I site upon redevelopment, the **Director of Lands** said that as far as he was aware, the terms were adequate to cover the requirement for the construction of the footbridges. However, he would look into the concern raised and would ensure that the problems arising from the Building I site would not be repeated in any other buildings.

Footbridge C

46. With reference to paragraph 89 of the Audit Report, the Committee noted that the Temporary Occupation Permit for Building III had been extended three times. The last extension would be valid until 26 June 1999. The Committee asked why it had taken such a long time to finalise the legal documents and the basis on which the Director of Buildings could issue such permits. The **Director of Buildings** explained that an Occupation Permit had not been issued because the requirements, particularly those relating to the construction of Footbridges B and C, had not been fully complied with. The **Director of Lands** said that both the Administration and the owners of the Building III site were responsible for causing the delay. The **Director of Lands** also said that an agreement had been reached with the owners of the Building II and Building III sites. The premium had been paid and the legal documents would be signed within a few days.

47. As regards the basis of the Director of Buildings' powers to issue Temporary Occupation Permits instead of Occupation Permits, the **Director of Buildings** said that:

- the powers to issue Temporary Occupation Permits were based on Section 21 of the Buildings Ordinance. His department would assess the need for issuing Temporary Occupation Permits according to the circumstances of individual cases. If some concessions had been given, then modifications to the terms of the relevant legal documents would be made. An Occupation Permit would be issued when all of the requirements had been complied with;

- in the case of Building III, there were reasonable justifications for extending the Temporary Occupation Permits; and

- he would find out whether there were any internal guidelines for issuing the Temporary Occupation Permits.

48. The **Secretary for Planning, Environment and Lands** advised the Committee in

his letter of 28 May 1999 in ***Appendix 12*** that:

- Section 21(2) of the Buildings Ordinance (Cap 123) empowered the Building Authority to issue an Occupation Permit or a Temporary Occupation Permit in respect of a new building. Section 21(6) of the Ordinance provided that the Building Authority might refuse to issue a Temporary Occupation Permit or an Occupation Permit under certain circumstances;

- in exercising the discretionary power under Section 21 of the Buildings Ordinance, the Building Authority took into account the circumstances of the case and sought legal advice if necessary. In addition, such power was vested with a directorate officer who would seek advice from the Building Committee of the Buildings Department in case of doubt. The Buildings Department had also issued an instruction that endorsement by the Assistant Director had to be sought for any extension of a Temporary Occupation Permit over one year; and
- as far as Building III was concerned, the Building Committee decided in August 1996 that a Temporary Occupation Permit for a period of six months be issued, after taking into account the circumstances of the case at the time and the advice of the Lands Department that the Lease Modification Offer Letter had just been issued and execution could be effected in a few months' time if the offer was agreed. Subsequent applications for extension were approved because more time was required to finalise the documentation and registration of the relevant Deeds of Dedication and Lease Modification.

49. According to paragraph 73 of the Audit Report, the owners of the Building III site submitted a Letter of Undertaking to the Building Authority on 18 July 1995 and undertook to construct Footbridges B and C at their own cost within 24 months after the issue of the Occupation Permit for Building III. The Committee asked whether the Letter of Undertaking was legally binding on subsequent owners of Building III. As the Occupation Permit might be issued soon, the Committee asked when the footbridges would be built. The **Director of Lands** advised the Committee that:

- the effect of the undertaking would be transferred into a Deed of Variation which would be binding on subsequent owners; and

- it was likely that the footbridges would be built within 24 months.

50. In response to the Committee's enquiry, the **Secretary for Planning, Environment and Lands** informed the Committee in his letter of 16 June 1999 in ***Appendix***

18 that:

- the Modification Letters and Deeds of Dedication for Buildings III and IV were executed on 11 June 1999. The Buildings Department was processing the application for a full Occupation Permit for Building III. It was conducting a site inspection to check that the works on site were in accordance with the approved plans and in compliance with the Buildings Ordinance. A full Occupation Permit might be issued as early as the following week;

- the Modification Letter in respect of Building III stipulated that its owner should complete the construction of Footbridges B and C within 18 months from the date of issuing the full Occupation Permit for Building III;

- the Buildings Department had issued consent for commencement works for Footbridge C. It had been verbally informed by the Authorised Person for Building III that arrangement was being made for the tendering of the relevant works contract, with a view to awarding the contract by the end of June 1999; and

- as regards Footbridge B, while the structural details for the support of the footbridge at the receiving point at Building II had yet to be submitted to the Buildings Department for approval, the building and structural plans for the footbridge itself and the support of the footbridge at the receiving point at Building III had been approved.

51. The **Secretary for Planning, Environment and Lands** subsequently informed the Committee that a full Occupation Permit was issued to Building III on 23 June 1999.

Footbridges D and E

52. The Committee noted that the Building Authority had failed to convince the owners of the Building V site to include Footbridge E in their building plans even though it had been included in the ODP. This was due to the fact that the lease of the Building V site was basically an unrestricted lease and a modification of the lease could not be applied for. The Occupation Permit for Building V (i.e. Hing Wai Building) was issued on 22 April 1998. The Committee asked whether there was any further development in the Government's negotiation with the owners of the Building V site.

53. The **Director of Lands** said that at the time when Building V was due for redevelopment, the Administration tried to convince its owners to include Footbridge E in their building plans. However, the attempt failed. There was nothing that the Administration could do to impose a requirement on the owners to build a footbridge. The matter would not be pursued. The **Secretary for Planning, Environment and Lands** added that as there were reservations about the effectiveness of building a footbridge at this particular location, it would no longer be worthwhile pursuing the footbridge option. The Administration would seriously consider the underground passage option.

54. As regards Footbridge D, the **Director of Lands** informed the Committee that as there was no requirement back in the 1970s for the construction of Footbridge D and the difficulties surrounding Footbridge A were still unresolved, there was no point for the Administration to insist on the construction of the footbridge. In the event that Building I was to be redeveloped, the possibility would then be explored.

55. In the light of lessons learned from the present case, the Committee asked whether the Administration would review the internal monitoring systems and consider the need for developing clear procedures and guidelines within the relevant government departments in order to enhance the Administration's public accountability and to prevent the recurrence of similar incidents. The **Secretary for Planning, Environment and Lands** noted the Committee's concern and undertook to provide more information in this regard.

56. In his letter of 28 May 1999 in ***Appendix 12***, the **Secretary for Planning, Environment and Lands** informed the Committee that:

- in the light of the experience of the footbridge cases, the Buildings Department had reviewed the relevant procedures and issued a revised Practice Note 39 with improvement measures;

- the Buildings Department had also drafted a new set of guidelines for the determination of appropriate bonus concessions where the dedication area was large. The proposed guidelines would be incorporated in the practice notes for the building professionals after consultation with practitioners in the trade; and

- the Lands Department had reviewed the relevant procedures in the light of the footbridge cases and tightened up the legal documents for the provision of footbridges. It had also issued clear instructions to address the concern about

the legal capacity of the parties involved in the Government's processing of an application for modifications.

57. The **Secretary for Planning, Environment and Lands** further advised the Committee in his letter of 16 June 1999 in ***Appendix 18*** that:

- the Lands Department had reviewed the internal checking procedures relating to the drafting of legal documents. The current procedures were considered adequate and sufficient; and

- lease modifications involving the provision of footbridges were now considered by the inter-departmental District Lands Conference. It would ensure that all departmental requirements, where applicable, were incorporated in the legal documents.

58. **Conclusions and recommendations** The Committee:

Inadequacies in the legal documents for enforcing Footbridge A link and the options for the construction of Footbridge A

- condemn the Administration:

  (i) for failing to impose the requirement to build and receive the Footbridge A linkage in return for the bonus and exempted areas granted to the owners of Buildings I and II in 1975 and 1992 respectively, because the provision was not included in the lease nor in the Deeds of Variation and Deeds of Dedication for the Building I site;

  (ii) for allowing more than 20 years to elapse while Footbridge A has not yet been built, and the changes in the ownership of the Building I site over the years have added to the complexity and difficulties in pursuing the provision of the footbridge; and

  (iii) for the fact that at various stages of the negotiating process, different government departments were involved in discussions with several different companies even though the legal status of these companies had not been ascertained. Such confusion within the Administration in handling the matter was incredible and totally inexcusable;

- consider that there is a demonstrated need for the provision of an elevated footbridge system in the heart of Central District, particularly in view of the established policy to segregate pedestrians and vehicles and the fatal accident occurring at the junction of Wyndham Street and Queen's Road Central, which has been identified as a traffic black spot;

- note that the Secretary for Planning, Environment and Lands will explore options for implementing the policy to improve pedestrian movement and safety in the area, including the construction of footbridges and an underground passageway;

- urge the Secretary for Planning, Environment and Lands to take expeditious measures to resolve the difficulties identified in the construction of Footbridges A, B and C;

- consider it inexplicable that:

  (i) the record of the meeting held on 3 February 1975 could not be found;

  (ii) the record of the meeting held on 3 February 1975 and the letter of 5 February 1975 from the Authorised Person to the Director of Building Development were not made available for the Public Works Department Conference (PWDC) on 6 February 1975; and

  (iii) the conclusions drawn, as recorded in the PWDC minutes of 6 February 1975, did not make reference to the offer given by the Authorised Person in his letter of 5 February 1975 and did not include a specific instruction to incorporate a requirement for the provision of Footbridge A in the Modification Offer Letter to the owners of the Building I site;

- condemn:

  (i) the then Director of Public Works, acting as Chairman of the PWDC, for failing to perform an important duty to ensure that the Administration's intentions for the construction of Footbridge A were properly implemented; and

  (ii) members of the PWDC, being senior government officials, for failing to remind the Chairman of the PWDC of the Administration's intentions and to monitor the implementation of the discussions at the meeting;

- express serious dismay that the then Principal Government Land Agent, who was responsible for giving instructions to his staff for drafting the Modification Offer Letter with the usual basic terms, had not raised the issue with the Chairman of the PWDC before issuing the instructions. If he was in doubt about the conclusions reached at the meeting, he should have consulted the Chairman;

- express dismay that while the Administration should clearly be aware of the error made by the PWDC in 1975 during its subsequent negotiations with the owners of the Building I site, it did not take timely action to investigate the cause of the error in order to consider whether disciplinary action should be taken against the officials concerned;

- note that:

  (i) the Administration has taken steps to ensure that, in future similar cases, it will stipulate clear and precise conditions in the Deeds of Dedication and other related legal documents to be executed with owners of buildings, to ensure that the owners will honour their obligations in connection with the provision of footbridges in exchange for bonus or exempted areas;

  (ii) standard clauses in legal documents on the provision of footbridge connections and supports, and the provision of internal public pedestrian walkways for linking with footbridge connections are now available; and

  (iii) in similar cases in future, the Government will vet critically the terms of covenant in documents such as Modification Letters so as to ensure that the planned footbridges can be connected to the buildings concerned upon their redevelopment, and that the terms are worded precisely to enable them to be enforced if owners fail to comply with the requirements;

<u>Delays in the provision of Footbridges B, C and D</u>

- express serious concern that:

  (i) the footbridges, which have been planned since the 1980s, have not yet been provided, and the Administration's policy objective of segregating pedestrians and vehicular traffic to reduce traffic congestion and improve road safety in the heart of Central District has not been achieved;

  (ii) three years have lapsed since the receipt of the Letters of Undertaking

from the owners of the Building III and IV sites for the construction of Footbridges B and C in July 1995 but the legal documents for the provision of Footbridges B and C have only been finalised recently;

(iii) although the Temporary Occupation Permit for Building III was issued in October 1996 and has been extended three times, a full Occupation Permit has only been issued recently; and

(iv) the negotiation between the Government and the owners of the Building III and IV sites has centred on issues concerning the construction of Footbridges B and C. Footbridge D, which was included in the relevant Outline Development Plan (ODP), has not been included in the Letter of Undertaking for the Building IV site;

- note the affirmative response given by the Administration at the public hearing and in subsequent correspondence that the construction of Footbridges B and C can be expected to be completed by 2001;

- note the undertaking given by the Administration at the public hearing that in future, when negotiating with owners of sites about the terms of lease modifications, the Government will take the initiative to persuade the owners to incorporate into the relevant legal documents ODP provisions, such as footbridges;

- urge the Administration to consider the need for incorporating pedestrian footbridges shown in ODPs into the statutory Outline Zoning Plans (OZPs);

- recommend that the Government take expeditious action to ensure that Modification Letters and Deeds of Dedication relating to the provision of footbridges are executed without delay; and

- wish to be kept informed of the progress of:

(i) the Administration's negotiation with the owners of the Building I site for the provision of Footbridge A;

(ii) the feasibility study on the proposed underground pedestrian network along Queen's Road Central;

(iii) the construction of Footbridges B and C;

(iv) the Administration's assessment of the need for incorporating pedestrian footbridges shown in ODPs into OZPs; and

(v) the promulgation of a new set of guidelines in the revised Practice Notes for building professionals to determine appropriate bonus concessions.

Chapter 3

Management services in public rental housing estates

The Committee noted the Director of Audit's review on the cost-effectiveness of the estate management services provided by the Housing Department (HD) for public rental housing (PRH) estates. The review covered the following areas:

- refurbishment of vacant flats;
- hawker control;
- under-utilisation of estate Artisans;
- deployment of Estate Assistants; and
- staffing complement for estate management.

Refurbishment of vacant flats

2. With reference to Table 2 of the Audit Report, the Committee noted that for the period January to August 1998, the average time taken for the HD to complete the refurbishment works for vacant PRH flats was 144 days. This exceeded considerably the HD's target of 57 days. The Committee asked why the refurbishment period was so long and enquired about the reasons for the substantial variance between the target and the actual time taken to complete the process.

3. **Mr John Anthony Miller**, **Director of Housing**, said that since July 1997, the HD had undergone a major business process re-engineering exercise. Business plans were developed for core services and targets were set to assess performance. Under this process, the refurbishment works were no longer managed by consultants, but were arranged in-house and undertaken by approved contractors. A target of an average period of 57 days for completing the refurbishment process was adopted. The Audit review was conducted immediately after the HD had implemented the new process. As revealed by Audit, the HD was unable to achieve the target during the early stage of implementation. This was due to the fact that the target might have been too ambitious. However, there had been some improvement in the latter stage of implementation.

4. **Mr Vincent TONG Wing-shing**, **Business Director/Management**, **Housing Department** informed the Committee that:

- the long refurbishment period was also attributable to the fact that the HD had under-estimated the amount of refurbishment works required. In the past, about 16,000 flats were refurbished. During the review period, a total of 22,000 flats were refurbished. As a result, the contractors were unable to cope with this unexpected increase in workload;

- the poor performance of a few contractors had also caused delays in the refurbishment process. The nature of the business required the contractors to mobilise a considerable number of workers within a short period of time. In 1997, the construction industry was booming and the contractors had difficulties in hiring sufficient workers to take up the refurbishment works. At that time, the total workforce was only about 300 to 400. The economic situation had changed since then. The highest number of workers hired at one time was 900. Nowadays, there were about 700 workers. More contractors had also been engaged;

- it was only in July 1997 that the HD staff were asked to take up the new responsibility. The staff's learning curve had affected the initial implementation of the new process. As staff members became more accustomed to the process and a computer system had been developed to facilitate their work, the duration of the refurbishment process had been reduced after the running-in period; and

- the HD was now able to complete the refurbishment works within an average period of 60 days. This was a significant improvement as compared to the previous periods averaging 120 days to 140 days and the longest period of 200 days.

5. From paragraph 32 of the Audit Report, the Committee noted that there had been improvements in reaching the various targets since April 1998: the whole refurbishment process was compressed from 184 days to 58 days; the duration for the HD staff to issue works orders was shortened from 27 days to around 12 days; the period for the contractors to complete the works was reduced from 134 days to 43 days; and the duration for the HD staff to inspect and certify completion of works improved from 18 days to seven days. The Committee also noted the Audit finding that substantial financial benefits up to $465.9 million a year could be achieved, if improvements in the refurbishment of vacant flats and other areas were made. With reference to these figures, the Committee asked whether a substantial amount of public money had not been properly spent and why the HA had tolerated this situation over the years, particularly when a large number of families were waiting for a long time for the allocation of a PRH flat. The Committee also asked whether the matter had been

addressed at the policy level and what action had been taken by the Chairman of the HA to address the problem since she assumed office.

6. **Dr the Hon Rosanna WONG Yick-ming**, **Chairman**, **Hong Kong Housing Authority** said that:

- she assumed the chairmanship of the HA in 1993/94. In 1994/95, she noticed that the refurbishment process was exceedingly long. The problem was brought up for discussion on different occasions. She had actually visited some PRH estates to get a better understanding of the problems;

- the HA agreed with Audit that there were areas for improvement in the refurbishment of vacant flats. Inadequacy in the monitoring process was the main area of concern. As the policy could not be changed overnight, the situation was reviewed from time to time by the relevant committees under the HA. Areas of improvement were identified. One example was transferring the management of refurbishment works from the consultants to the HD staff;

- as Chairman of the HA, she had to ensure that the policies initiated by the HA had to be effectively implemented. However, there were difficulties in monitoring the implementation of these policies. The HD had also encountered various problems in putting the policies into practice. She agreed that there was room for improvement in the implementation and monitoring process. In fact, the HD had been urged to bring about improvements expeditiously;

- she admitted that the time required for the refurbishment works had been longer than expected. The HA was fully aware that if the process could be shortened, there would be an increase in rental income. It was therefore important to establish the targets and to adhere to them as far as possible. She believed that if there was sufficient supervision, the targets as set out in paragraph 32 would be achievable. In fact, the HD was getting very close to the targets;

- a committee under the HA was also examining the procedure for monitoring the approval of extension of time (EOT) to the delay cases to ensure that the targets would be strictly adhered to; and

- the refurbishment of vacant flats was only one of the problem areas that the HA and the HD had to address. The HA had embarked on a reform to address the problems associated with a bloated organisational structure.

7. The **Director of Housing** also said that:

- the general direction of the business process re-engineering exercise conducted in 1997 was to enhance the transparency of the operation of the HA and the HD. Many historical problems within the organisation were now exposed and could be properly addressed; and

- in the past, the division of responsibility and the lines of accountability in the HD were not clear. Under the re-engineering exercise, the businesses were classified into four core areas and a business plan was drawn up for each of these areas. The first business plan was announced in mid-1997. The targets were clearly set out in the plan.

8. At the request of the Committee, **Mr Dominic CHAN Yin-tat**, **Director of Audit**, confirmed that according to the information made available to him, the targets were only established in July 1997.

9. The **Business Director/Management**, **Housing Department** informed the Committee that prior to July 1997, no specific targets were set for the contractors. On average, it took 92 days for them to finish the refurbishment works. As this was found to be unsatisfactory, the re-engineering process was implemented in July 1997.

10. The Committee considered that if the business targets were only set in mid-1997, then the consultants and the contractors should not be blamed for the long time taken to finish the refurbishment works. The Committee asked whether it was the consultants/contractors or the HD staff who had neglected their duties and who should be held responsible for the money wasted prior to 1997. The **Chairman**, **Housing Authority** said that:

- she would find out whether any targets had been set for the consultants prior to July 1997;

- as far as she could remember, the issues relating to the refurbishment process had been discussed at the committee level. It was decided at that time that administrative measures should be adopted to expedite the process. As it turned out that the results were not satisfactory and the situation had become intolerable, the HA decided to implement the business process re-engineering

exercise in 1997. In addition to setting clearer targets for the various businesses, the exercise also aimed at changing the organisational culture; and

- with hindsight, it could be said that if the targets had been established at an earlier stage, then there would not have been so many cases of delay. However, the original intention was to allow the HD staff some time to try to make improvements. Moreover, it should not be presumed that whenever a policy was found to be unsatisfactory, it should be drastically revised.

11. The **Business Director/Management**, **Housing Department** supplemented that the HD had started to review the refurbishment process prior to 1997. The new process was introduced as soon as the contract with the consultants expired. Therefore, there was no need for the matter to be taken up at the policy level.

12. With regard to the Audit recommendation in paragraph 26 of the Audit Report that more contractors should be appointed to spread the workload of refurbishment works, the Committee asked how the existing contractors were appointed and assigned, and whether the HD would consider introducing an element of competition in the appointment procedure. The **Business Director/Management**, **Housing Department** told the Committee that:

- contractors were appointed through a tendering process. A monopoly was not allowed;

- the HD had already increased the number of contractors. At one time, there was a maximum of 14 contractors carrying out refurbishment works in various districts. More contractors would be assigned to those districts where there was a larger number of vacant flats to be refurbished; and

- as it was impossible to forecast where the vacant flats would emerge, the HD had delegated the power to the housing managers to engage contractors, so that the housing managers could exercise greater flexibility in responding to market changes.

13. According to paragraph 28 of the Audit Report, the average liquidated damages (LD) imposed on the contractors for the delays was $23 per day and the median monthly rent of a PRH flat was $40 a day. Having regard to the fact that the current rental of PRH flats was below market value because of heavy Government subsidy, the Committee queried the adequacy of the LD rate for achieving a deterrent effect and for compensating the HA for the

actual loss resulting from the delays, particularly after Audit had pointed out in an earlier report that the LD should represent a genuine pre-estimate of the likely loss to the Government. The **Business Director/Management**, **Housing Department** explained that the LD rate was determined according to a standard formula that was commonly applied in maintenance and repair contracts. The loss of rental income to the HA had not been taken into account in the existing contracts which would expire in July 1999. However, the HA would take note of the Audit recommendation and incorporate the rental loss element in the formula to be worked out for the new contracts. The market value of the rental would also be quantified.

14. The Committee noted that in paragraph 116 of the Audit Report, the Chairman of the HA mentioned the granting of an ex-gratia allowance to prospective tenants who were prepared to arrange for simple touching-up works to be carried out in their flats. The Committee asked whether this scheme had been implemented and how effective it was. The **Chairman**, **Housing Authority**, said that:

- the scheme was introduced with a view to shortening the turn-around time and expediting the re-letting process. Prospective tenants who opted for the scheme would be given a three-month rent-free period, amounting to a few thousand dollars, for arranging simple touching-up works for their flats. More complicated refurbishment works such as plumbing would still be carried out by the HA; and

- unfortunately, the response to the scheme was not as positive as expected. Instead of an estimated take-up rate of about 10%, only 2% of the prospective tenants participated in the scheme. The HA was in the process of reviewing this scheme and was considering extending it to cases involving more complicated refurbishment works in order to achieve greater cost-effectiveness.

15. In response to the Committee's question as to why the prospective tenants were not given the equivalent amount of $17,000, which was the average value of a works order issued by the HD, the **Business Director/Management**, **Housing Department** said that under the existing scheme, the prospective tenants were only required to carry out simple touching-up works such as laying tiles. A sum of about $4,000 was considered sufficient. The HD required an average amount of $17,000 because more complicated works, for example, replacement of sinks and plumbing, were carried out.

16. Upon the request of the Committee, **Mr Marco WU Moon-hoi**, **Acting Director of Housing** provided additional information on the refurbishment process in a paper entitled "Vacant Flat Refurbishment". The Paper is in ***Appendix 19***.

17. In reply to a question raised by the Committee at the second public hearing, the **Business Director/Management**, **Housing Department** clarified that the Committee on the Allocation and Standards of Vacant Flats, which was referred to in paragraph (a) of Part 1 of the HD's Paper, was an ad hoc committee established in 1992 under the Housing Authority. It was responsible for the allocation of vacant flats and formulating the refurbishment standards. The Committee was disbanded in 1996/97 as its work was taken over by the HD.

18. According to paragraphs (a) to (c) in Part 2 of the HD's Paper, three consultants were appointed to take charge of the refurbishment works and a total of $76.78 million was paid to the consultants from April 1994 to March 1997. During this period, the target set for the consultants to process the refurbishment works was three months and the actual time taken in 1997 was, on average, 92 days. In the light of this information, the Committee asked how the target of three months had been arrived at and why the target of 57 days had not been adopted earlier. The Committee also asked whether the amount of $76.78 million had been wasted.

19. The **Chairman**, **Housing Authority** said that:

- when the issue was brought to her attention in 1993/94, she also queried whether it required three months to complete the refurbishment works for a PRH flat which was of an average size. However, the consultants had been appointed at that time. At her suggestion, the HD started to streamline the refurbishment process and it had taken some time for the target of 57 days to be established;

- as indicated in paragraph (c) of Part 1 of the HD's Paper, improvements had been made to the refurbishment process by shortening the initial and final inspection periods. One could easily make a conclusion with hindsight as to whether the processes could have been shortened earlier. However, the situation at the time had to be considered; and

- the HA was striving all the time to make improvements to its operations in order to enhance efficiency. One example was the construction period of PRH estates. It had been shortened from the longest period of about 60 months to 47 months. This improvement was made possible by a number of factors including better

administrative arrangements.

20. The **Business Director/Management**, **Housing Department** supplemented that:

- the target of three months was established by the consultants, after taking into account the labour supply situation and the actual workload of the refurbishment works. Around 1992, there was a shortage of labour in the refurbishment industry because of the buoyant property market. In the subsequent years, the HD was able to increase the workforce gradually from around 400 to 900;

- the sudden surge in workload had made it difficult for the consultants, who were also responsible for the initial and final inspections of the flats, to shorten the work flow; and

- in 1994, the HD had started to review the refurbishment process. Based on the experience of the consultants, the target of 57 days was established. The HD also adopted the practice used by the consultants to employ a single contractor to handle both building works and building service items so as to ensure better co-ordination and to save time.

21. In his letter of 29 May 1999 in ***Appendix 20***, the **Acting Director of Housing**, provided the Committee with further information on some of the issues raised. The main points are summarised below:

- the amount of additional income achieved by reducing the refurbishment period from 92 days in 1997 to 55.17 days and 57.63 days in March and April 1999 was $3.89 million and $3.41 million respectively; and

- the following factors were considered when establishing the target of three months for completing the refurbishment works:

  (i) the workforce available in the construction market at the time to cope with the need to complete a large quantity of refurbishment works;

  (ii) resources of the consultants;

  (iii) the anticipated scope and extent of refurbishment works; and

(iv) the amount of co-ordination work required to be carried out by the consultants.

22. Upon the request of the Committee, the **Director of Audit** provided further information, in his letter of 16 June 1999 in ***Appendix 21***, on the time targets set by the HD and the actual time taken to complete the refurbishment process at various points in time.

Hawker control in public housing estates

23. The Committee noted that as at 1 October 1998, the HD had deployed 147 teams, known as Mobile Operations Units (MOU), with a total establishment of 490 staff to control illegal hawking in housing estates. According to paragraph 55 of the Audit Report, as at December 1998, 59 out of 169 PRH estates were hawker-free, 33 estates had on average one to four hawkers, and the remaining 77 estates had five or more hawkers. With reference to these figures, the Committee asked whether it was cost-effective to deploy the MOUs to carry out hawker control duties in the 92 estates where hawking activities were relatively insignificant. The Committee also queried whether it was justifiable to require the MOUs to work during normal office hours only, as hawkers were most active in the evening and early morning.

24. The **Director of Housing** said that he generally accepted and welcomed the observations of the Director of Audit. However, on the issue of hawker control, he had some reservations. According to his understanding, the pattern of hawking activities was very unique. One should not presume that an estate was hawker-free when no hawker was seen. It could just be that they had not been found. If the MOUs were removed from these estates, the hawkers would re-surface.

25. The **Business Director/Management**, **Housing Department** supplemented that:

- in December 1998, the HD reviewed the situation of illegal hawking in PRH estates and found that the problem was more serious than that depicted in the Audit Report. If the number of MOUs were reduced, the situation would worsen;

- since April 1999, the number of Hawker Control Guards employed by service contractors to help control hawkers had been reduced from 393 to 289. Fewer Hawker Control Guards were deployed to those estates where hawking

activities were not significant. This would contribute to an annual saving of about $20 million;

- in the past, the MOUs only worked one shift during normal office hours. They were now required to work two shifts extending from 7:00 am to 12:00 midnight, which would cover the hours during which the hawking activities were most active. As the need for overtime work had reduced, the HD was able to achieve some saving through the reduction of overtime payment; and

- the front-line staff stationed in estate offices would also be required to take on hawker control duties.

26. According to paragraph 52 of the Audit Report, the HD should have reduced the establishment of Workman II in the MOUs from 441 to 294 posts as at 1 October 1998. However, Audit noticed that in November 1998, the strength of Workman II was 345, which meant that there were still 51 surplus Workman II who were not yet redeployed despite the fact that their posts had already been deleted. In response to the Committee's question as to why these 51 Workman II had not been redeployed, the **Business Director/Management**, **Housing Department** said that they had been deployed to the housing estates to take on enforcement duties against illegal parking and shop-front obstructions.

27. As an increasing number of PRH estates would be managed by private management agencies after the implementation of the Tenants Purchase Scheme, the Committee asked whether the HD would consider streamlining the staffing complement of the MOUs. The **Business Director/Management**, **Housing Department** said that:

- the MOUs had been rationalised and now each team only comprised one Foreman and two Workmen II. The Workmen I in the teams had been deployed to take up other duties in the estate offices;

- the HD had no intention to further streamline the MOUs because illegal hawking activities were still rampant in some PRH estates. As the Foremen were vested with the authority to arrest illegal hawkers and to seize and dispose of their equipment and commodities, the MOUs were effective in achieving a deterrent effect;

- however, if the situation improved, the HD would review the staffing complement and might consider disbanding the MOUs eventually; and

- there was a retraining programme for Workmen I and Workmen II, so that they could take on other duties such as gardening or become skilled labourers.

28. As the HD had been negotiating with the two municipal councils regarding the hand-over of the hawker control duty to the councils, the Committee asked whether there was any progress in this respect. The **Business Director/Management**, **Housing Department** said that there had been some initial discussion with the Urban Services Department and the Regional Services Department. The two departments had been made aware of the fact that about 25,000 PRH flats were sold to the tenants annually and the trend was expected to continue. It would become increasingly improper for the HD to continue to carry out the hawker control duties. However, the negotiation had been suspended because the future of the two municipal councils was not yet known. The proposal was now being pursued at the policy bureau level.

Estate Artisans not fully utilised

29. From paragraph 64 of the Audit Report, the Committee noted the Audit observations that the 716 estate Artisans in the HD were not fully utilised and their idle time was about 50% of their available man-hours. The Committee were concerned about the high percentage of idle time of the estate Artisans and asked whether any measures had been taken to enhance their productivity. The **Acting Director of Housing** and the **Business Director/Management**, **Housing Department** informed the Committee that:

- the estate Artisans were responsible for simple maintenance and minor repair works in tenants' flats and common areas of the PRH estates. In view of the availability of a large number of maintenance workers in the market, the HD was considering allowing tenants to engage the service of these workers. Despite this development, the estate Artisans would still be responsible for carrying out routine maintenance and emergency repairs in the estates;

- to enhance their productivity, the HD would ask the estate Artisans to take up more minor works and gardening duties currently undertaken by maintenance contractors and horticulture service contractors respectively; and

- the Chief Estate Assistants were now charged with the responsibility for preparing the work schedule of the estate Artisans. Since February 1999, the computer system had been enhanced to issue works orders and to correctly record and calculate the estate Artisans' workload. The latest computer records indicated that the workload of the estate Artisans had increased to 84% of their

available man-hours.

30. Notwithstanding the above measures, the Committee were concerned about the cost-effectiveness of transferring the maintenance and horticulture duties from the contractors to the estate Artisans. The **Chairman**, **Housing Authority** told the Committee that:

- the HA was also concerned about the high percentage of idle time of the estate Artisans and would ensure that the problem would be properly addressed;

- in the past, the duties of the HD staff were too finely delineated and there had been difficulty in assigning extra work to them;

- the HD would explore the possibility of redeploying the estate Artisans concerned to ensure that they would be given sufficient work to do. The ultimate goal was to increase their workload to 100%;

- in order to achieve the above target, the HD would transfer the maintenance and horticulture duties to the estate Artisans, closely monitor their workload and provide them with training to enhance their skills so that they could take on additional duties; and

- given the existing mechanism, it would be difficult for the HD to make the staff redundant. That was why the HA was considering introducing private sector involvement in the forthcoming reform.

31. The Committee were concerned as to how the HD would manage the surplus staff in the establishment and questioned whether it was the senior management's fault for not giving the estate Artisans sufficient work to do. The Committee also queried whether an internal monitoring system had been put in place to ensure that the senior management could supervise their staff effectively. The **Acting Director of Housing** and the **Business Director/Management**, **Housing Department** said that:

- as a matter of policy, the HD would redeploy the estate Artisans within the department and enhance their productivity. If necessary, the HD would seek the support of the Civil Service Bureau to see if they could be absorbed by other departments. If it was found that certain posts had to be abolished even after redeployment, the HD would consider making the staff concerned redundant. However, this would only be adopted as the last resort. The number of surplus staff could also be reduced through natural wastage;

- the HD was aware that redeployment was only a transitional measure, though this measure was effective in enhancing staff productivity and achieving savings within the department immediately. In the long run, the staff concerned had to be better equipped and become more competitive. It was hoped that through retraining, the staff would have a better chance of being absorbed by the private sector. The HD was consulting its staff about the retraining programmes and their response had yet to be ascertained;

- the HD's management would have to take responsibility for not giving the estate Artisans sufficient work to do in the past. The management was actively seeking solutions to the problems identified and was trying all the time to improve the management and monitoring systems within the department; and

- since October 1998, the HD had implemented a series of administrative measures to improve the lines of accountability. In addition to drawing up work plans for the estate Artisans, the Chief Estate Assistants were also required to conduct daily briefings on work priorities and random checks on performance. All these would be reported to the Housing Managers who were fully responsible for matters relating to staff management within their estates. They were also responsible for advising the Headquarters of the staffing situation in their estates. If there were surplus staff in one estate, they would either be posted back to the Headquarters or to other PRH estates.

32. The **Acting Director of Housing** advised the Committee in his letter of 29 May 1999 in ***Appendix 20*** that:

- in 1995, a computer system, Maintenance Information System and Infra-structure Support (MISIS), was introduced to enhance the recording system and performance monitoring of estate Artisans. Administrative guidelines were issued from time to time to fine-tune the operation of the MISIS;

- guidelines on the deployment of estate Artisans and the duties of supervising officers at different levels in the estates were delineated in Estate Management Branch Circular No. 20/96 issued in July 1996. The supervisory staff were collectively responsible for ensuring that the estate Artisans were fully and gainfully deployed; and

- it was recognised that the engagement of horticulture service contractors had affected the workload of the estate Artisans in the past few years. Actions had

been taken since 1998 to enrich their work and to strengthen the monitoring of their deployment.

Deployment of Estate Assistants

33. The Committee noted that as at 1 October 1998, the HD had a total establishment of 1,534 posts of Estate Assistant grade for PRH estates. The Estate Assistants were responsible for looking after the physical conditions of the buildings, communal areas and other facilities of the estates. They also assisted in rendering management and tenancy services to the residents. The Committee also noted that since September 1994, Tower Guards and Tower Guard Supervisors were engaged to provide security services to PRH estates. According to Audit, the duties performed by the Tower Guards and Tower Guard Supervisors duplicated those of the Estate Assistants. The Committee asked whether the HD would consider the Audit recommendation that the number of Estate Assistants should be reduced in order to achieve savings in staff cost.

34. The **Business Director/Management**, **Housing Department** said that:

- Tower Guards and Tower Guard Supervisors were mainly responsible for providing security services to the PRH estates whereas the Estate Assistants had a wider range of duties including handling of complaints from the tenants and inspecting the various installations in the estates such as the fire alarm system;

- to address the problem of duplication of duties, the HD had implemented a new arrangement whereby all Tower Guard Supervisors in the PRH estates with 24-hour security service would be disbanded and their duties would be absorbed by Estate Assistants; and

- it was not the deliberate intention of the HD that all Estate Assistants, irrespective of their workload, should be retained. As stated previously, if there was insufficient workload, the staff concerned would be redeployed to perform other duties. Making them redundant would be the last resort. The long-term solution was to introduce greater private sector involvement in estate management so that the HD's staff could be absorbed into the private sector gradually.

35. Having regard to the salary differentials between the two posts, the Committee queried whether it was cost-effective to replace all Tower Guard Supervisors with Estate

Assistants and whether there was a long-term measure to address the problem. The **Chairman**, **Housing Authority** said that:

- when the plan for engaging the tower guard service was introduced in 1994, there was an understanding that the number of Estate Assistants would be reduced because part of their duties would be taken over by the Tower Guards and Tower Guard Supervisors. It was under this premise that the HA approved the plan;

- however, the rate of natural wastage in the Estate Assistant grade had been very low and the HD had very limited flexibility in deploying its staff across the grades;

- on the other hand, it was not possible to replace Estate Assistants with Tower Guard Supervisors because the former had better knowledge and experience in property management; and

- as Tower Guard Supervisors were employed on contract terms, they were disbanded upon the expiry of their respective contracts.

36. It was stated in paragraph 82 of the Audit Report that based on the data of a work-logging exercise conducted by the HD in 1991, 38% of the duties of the Estate Assistants could be carried out by the Tower Guard Supervisors and an annual saving of $53 million could be achieved. The Committee asked whether the estimate of $53 million was based on the salary levels of 1991 and whether the HD had conducted another work-logging exercise since 1991 to update the data. The **Acting Director of Housing** and the **Business Director/Management**, **Housing Department** told the Committee that:

- the estimate of $53 million was based on the recent salary levels of Tower Guard Supervisors and Estate Assistants;

- the HD had not conducted another work-logging exercise since 1991. It would not contest the calculation made by Audit, though the current percentage should be lower; and

- the workload of the Tower Guards was now computerised by using the Electronic Patrol Monitoring System.

Increasing private sector involvement in the Housing Authority's estate management

and maintenance services

37. The Committee noted that in paragraph 116 of the Audit Report, the Chairman, Housing Authority said that the HA had taken a fresh look at estate management services with a view to restructuring the way they were delivered. A consultancy study had been commissioned to explore the feasibility of greater private sector involvement in estate management and maintenance services, through some form of corporatisation or privatisation. The Committee also noted the Acting Director of Housing's paper entitled "Information Note on Increasing Private Sector Involvement in the Housing Authority's Estate Management and Maintenance Services". The Paper, in ***Appendix 22***, set out in detail the background of the consultancy study, the consultant's observations and recommendations for increasing private sector involvement in estate management and maintenance services, and the decisions of the HA.

38. The **Chairman**, **Housing Authority** was invited to brief the Committee on the latest position of the matter. She said that:

- in the past few years, it had become increasingly apparent that the HD had a bloated structure and a huge establishment. It was a historical problem and one that was not easy to deal with;

- the HD had tried to address the problem by introducing the Management Enhancement Programme in 1997. While this was positively received by the HD's staff, the exercise was not able to resolve all the problems identified;

- the HA was facing two problems. First, the operating costs of the HD was very high, as compared with the costing in the private sector. One solution was to control the operating costs. However, the HA's power in this respect was limited. Second, the HA was faced with the question as to whether more services should be contracted out. In doing so, the HA had to ensure that the service standards would be maintained and that the operating costs could be reduced;

- against this background, the HA decided to commission a consultant to explore the feasibility of greater private sector involvement in estate management and maintenance services. The consultancy report had triggered off extensive debate in the community and strong reaction from the HD's staff;

- the HA was still considering the recommendations of the consultancy report, in particular those relating to the option of the phased service transfer within a period of five to seven years. While the HA was agreeable to this option, it

would need some time to consider the extent and pace of the transfer. A Task Force had been formed to study the implementation programme and would make a report to the HA in six months;

- the HD's staff had proposed a Sixth Option aiming at increasing the competitiveness of the HD so as to make it possible for the staff to take up some of the services;

- at the same time, the HA had commissioned another consultant to study how the HD's structure could be streamlined across the board; and

- while the HA was determined to address the problems, it would not under-estimate the difficulties involved.

39. The Committee were concerned as to whether the consultancy study on streamlining the HD's structure would be a fair one and whether there was any conflict of interest, since it was commissioned by the senior management of the department. The **Acting Director of Housing** said that the study would cover the whole department and would assess the need for streamlining the structure at all levels. The HD would assist in collecting the necessary information for the study and would ensure that the process would be fair and reasonable. Any views from the staff side would be welcome. The report would be submitted to the HA for consideration as soon as it was ready.

40. In reply to the Committee's question on when the decision to commission the consultancy study for streamlining the HD's structure was taken, the **Acting Director of Housing** and the **Chairman**, **Housing Authority** said that the HA and the HD had all along been aware of the bloated structure and the high operating costs of the department. The problems became apparent when the Management Enhancement Programme was implemented in 1997. It was then considered necessary to commission an independent consultant to give advice on how the department's structure could be streamlined and how its operating costs could be contained.

41. As to when the reports of the consultancy studies would be available, the **Chairman**, **Housing Authority** informed the Committee that the HA had accepted the report of the consultancy study on the introduction of private sector involvement and had set up the Task Force to consider how the phased service transfer could be implemented. It would also consider the Sixth Option proposed by the staff side. The HA expected a report from the Task Force in six months. As regards the study on streamlining the HD's structure, the consultant had been asked to give a report in six months. Recommendations of the latter report would

not be implemented prior to mid-2000 because some time would be needed for staff consultation.

42. **Conclusions and recommendations** The Committee:

Refurbishment of vacant flats

- acknowledge the statement made by the Chairman, Housing Authority that despite her personal involvement and the efforts made by the ad hoc committee of the Housing Authority to monitor and improve the time targets, the duration of the refurbishment process remained unsatisfactory;

- express dismay that the time target of 57 days set for refurbishment works was not met and the average time of 144 days to refurbish vacant flats was unduly long, both of which had resulted in rental loss and lengthening of the waiting time for public rental housing flats;

- express serious dismay that the then Director of Housing had depended heavily on the consultants to manage the refurbishment works for the period 1993 to 1996, and had failed to closely monitor their performance. This demonstrated dereliction of duty and the failure of the management to fulfil supervision responsibility;

- recommend that the Director of Housing should review the refurbishment process and the target of 57 days within the coming six months to ascertain whether it is already the shortest possible target and whether there is any scope for further improvement;

- urge the Director of Audit to follow up the review;

- acknowledge the undertaking of the Director of Housing that the rate of liquidated damages for refurbishment works will be revised to cover a genuine pre-estimate of the likely loss arising from delays of works;

Hawker control in public housing estates

- express serious concern about the cost-effectiveness of spending $161 million a year for controlling hawking activities, having regard to the fact that illegal hawking activities were both decreasing and not widespread in public rental housing (PRH) estates;

- express dismay that a disproportionate amount of resources was deployed to the PRH estates which did not have evidence of hawking activities;

- express concern that there were 51 surplus Workmen II in the Mobile Operations Unit (MOU) teams despite the fact that their posts had already been deleted;

- recommend that in addition to reducing the number of Hawker Control Guards, the Director of Housing should:

  (i) further review the staffing requirements of the MOU teams to see if there is scope for reducing the number of Workmen II; and

  (ii) take prompt action to redeploy the surplus Workmen II;

Estate Artisans not fully utilised

- find it appalling that the productive time of the estate Artisans was as low as 43% of their official working hours;

- acknowledge that measures are being taken to increase the productivity of the estate Artisans, and that the manning scales of estate Artisans are being reviewed having regard to the operational requirements of individual estates;

- note that the Housing Department (HD) has not conducted a comparative study between retaining the maintenance and horticulture service contracts and transferring the minor works and gardening duties to estate Artisans to find out which arrangement provides better value for money;

- recommend that the Director of Housing should take into account the results of the above comparison and ensure that the arrangement with the greatest value for money should be adopted;

Deployment of Estate Assistants

- express grave concern about the HD's tardiness in addressing the problem of duplication of work between Estate Assistants and tower guards, although the problem was known at the outset when the implementation of enhancement of the security services was endorsed in September 1994 by the Housing Authority;

- express concern that the senior management of the HD had failed to delineate clearly the duties of Estate Assistants and the tower guards and to take into account the substantial staff cost differential between the two posts;

- express concern that the Chief Estate Assistants and the Housing Managers had failed to fulfil their supervisory responsibility and ensure that the staff under their supervision were optimally deployed;

- recommend that the Director of Housing should consider setting up a proper time-recording system for monitoring all the work performed by Estate Assistants, for setting priorities of their work and making management decision;

- acknowledge that the Director of Housing has implemented a new arrangement whereby all Tower Guard Supervisors would be disbanded and their duties would be absorbed by Estate Assistants;

The Housing Authority's reviews of the estate management services and the structure of the Housing Department

- express grave concern that, notwithstanding the potential staff reduction of 28% and the potential annual staff cost savings amounting to $372 million per annum if all PRH estates maintain a thin and lean staffing structure comparable to that of the Tenants Purchase Scheme (TPS) estates, no action has been taken by the HD to put this into effect;

- acknowledge the update given by the Chairman, Housing Authority regarding the exploration of other means of improving the productivity and competitive edge of the HD's staff, including corporatisation, privatisation and private sector involvement;

- urge the HA to conclude the review on the new staffing complement in TPS and take effective and expeditious measures to ensure a thin and lean staffing structure for all management teams of PRH estates;

- recommend that the HD should not only ensure a thin and lean structure for front-line staff, but should also take this opportunity to review and streamline the staffing structure of the central administration including the tenancy administration services in order to achieve overall effectiveness and cost savings;

- urge the Secretary for the Civil Service to provide support and assistance to the HD to ensure that it can manage its workforce with maximum flexibility; and

- wish to be kept informed of the results of:

  (i) the review on the refurbishment process;

  (ii) the revision of the rate of liquidated damages;

  (iii) the negotiation regarding the handing over of the hawker control duties in PRH estates to the Urban Services Department and the Regional Services Department;

  (iv) the review on the staffing requirements of the MOU teams;

  (v) the transfer of duties from the maintenance and horticulture service contractors to the estate Artisans;

  (vi) the review on the manning scales and redeployment of:

    (a) Workmen II;

    (b) estate Artisans; and

    (c) Estate Assistants;

  (vii) the review on the new staffing complement in TPS;

  (viii) the review on the staffing structure of the HD; and

  (ix) the study of the Task Force on the recommendations of the consultancy report on increasing private sector involvement in estate management and maintenance services.

Chapter 4

The construction of the Kwai Chung Viaduct

The Committee noted the Director of Audit's review on the construction of Kwai Chung Viaduct (KCV). The KCV was a major section of Route 3 which formed an integral part of the Airport Core Programme. The KCV Contract was awarded in April 1993 and was scheduled for completion in September 1996. It included the design and construction of the Mainline Viaduct (i.e. the non-Airport Railway works) and related Airport Railway works. The latter was entrusted by the Mass Transit Railway Corporation (MTRC) to the Government. According to Audit, the KCV Contractor submitted more than 300 claims for extensions of time and additional costs arising from disruption of works. The claims were settled by mediation and the Government had to pay a sum of $365 million to the KCV Contractor. As a number of claims were related to the Airport Railway works, $234 million was recovered from the MTRC. The remaining $131 million was borne by the Government as additional cost of the KCV Contract.

2. The Committee noted that the Director of Audit had examined:

- the circumstances leading to the claims submitted by the KCV Contractor; and

- the adequacy of the arrangements for interface works.

3. According to paragraphs 15 to 17 of the Audit Report, the Highways Department knew that the design work of the Airport Railway was not fully complete at the time of tendering of the KCV Contract. The Airport Railway works were therefore included in the KCV Contract based on provisional quantities and with the option of ordering the works after the commencement of the KCV Contract. The MTRC requested late changes even after the KCV Engineer had instructed the KCV Contractor to incorporate the Airport Railway works into the KCV Contract. The checking of the design for the non-Airport Railway works and the Airport Railway works was completed eight months and 29 months respectively after the date of tender invitation. Against this background, the Committee asked:

- whether Works Bureau Technical Circular No. 6/91, which required that the detailed design of public works projects should be complete before tenders were invited, had been complied with; and

- whether there was a mechanism to vet the design changes of the Airport Railway.

4. **Mr LEUNG Kwok-sun**, **Director of Highways**, informed the Committee that:

- the MTRC had got a design for the Airport Railway and there was agreement on the alignment of the railway when tenders were invited. Unfortunately, the MTRC informed the Highways Department after tendering that there would be changes to the design for the Airport Railway, but the exact changes were not yet finalised; and

- as regards the vetting of designs, the normal procedure was for the Government Consultants to submit to the Highways Department, prior to inviting tenders, a full set of design calculations which should have been checked by a qualified independent designer. For the Airport Railway works, the checking of the design was available 29 months after tendering because there were late instructions from the MTRC for amending the design.

5. **Mr KWONG Hon-sang**, **Secretary for Works**, pointed out that, in spirit, the Works Bureau Technical Circular was followed. Some detailed design, mainly relating to the Airport Railway works, was not available at the time of tendering. Normally, all detailed design would be completed before tendering. The Airport Railway project was a very special case.

6. **Mr Russell Black**, **Project Director**, **Mass Transit Railway Corporation**, also said that:

- from 1992 to 1994, the Airport Railway project was under discussion between the Chinese and the British Governments and there was no firm commitment for the project. Neither was a financial support agreement entered between the MTRC and the Government;

- as the Airport Railway would form an integral part of the KCV works, it was necessary for the Government to make some advance decisions and to seek the Finance Committee(FC)'s approval to fund these works. The KCV works, based on the preliminary design of the railway alignment and the assumed loading of the Airport Railway, were undertaken before the MTRC's detailed design was finalised; and

- the detailed design work was committed by the MTRC during 1993. After a decision on the track form, the loading and refuge siding of the Airport Railway was made, firm information on the design was given to the KCV Contractor.

7. In the light of the above, the Committee asked:

- whether the financial implications of changing the design after the commencement of the Contract had been considered;

- whether the difficulties arising from the inability to finalise the design had been reported to a relevant authority such as the New Airport Projects Co-ordination Office (NAPCO); and

- whether the FC had been informed of such difficulties when funding approval was sought in September 1993.

8. The **Project Director**, **Mass Transit Railway Corporation**, said that the MTRC was aware of the financial implications of issuing late instructions to amend the design. In fact, this was reflected in the KCV Contract by including the Airport Railway works as re-measurement items.

9. The **Director of Highways** said that:

- the Highways Department was aware that the design changes would attract claims from the KCV Contractor. However, the extent of the financial implications was not known at that time because the MTRC had not yet finalised its requirements;

- as the Airport Railway works were entrusted by the MTRC to the Government, there was agreement as to how the project should be handled. The opinion of the KCV Engineer was always taken into consideration. The MTRC was represented in all the meetings and was well aware of its financial responsibility; and

- paragraph 13(c) of the FC paper dated 24 September 1993 had pointed out that some related works under the Route 3 structure, including provision for a refuge siding and an emergency detraining platform, abutments and some modifications to the track form would be incorporated by variations to the KCV Contract.

10. The **Secretary for Works** said that he believed the relevant departments were aware of the situation. The FC paper also indicated that there would be possible changes to the design.

11. The **Director of Highways** supplemented in his letter dated 17 May 1999 in ***Appendix 23*** that:

- the Highways Department and the MTRC had adopted a mutually acceptable arrangement to effect the proposed design and works changes. If agreement on the proposed variations could not be reached, a referral would be made to the NAPCO for a final decision; and

- all relevant parties, including NAPCO, were satisfied that the design changes were necessary for the safe operation of the Airport Railway and agreed that the requested design changes, to be incorporated into the KCV Contract, should be recommended to the FC.

12. In the light of the lesson learned from the Airport Railway works, the Committee asked whether the Administration would consider including a financial risk assessment in the funding application to the FC, if additional financial commitment was anticipated for those works projects which could not comply fully with the requirements of the relevant Works Bureau Technical Circular. **Miss Denise YUE Chung-yee**, **Secretary for the Treasury**, said that:

- the Airport Railway project was very unique. Most public works projects were not developed under such a tight programme. In fact, the design work of projects would be completed before a funding application was submitted to the FC;

- for a re-measurement contract, the engineer was responsible for estimating the final price for the project. Any follow-up work would be dependent on the best information available at the time;

- in most works contracts, there was a contingency provision. The estimation of the contingency was dependent on the extent of preparatory work completed; and

- she would follow-up the advice of the Committee.

The construction of the Kwai Chung Viaduct

13. The Committee noted the Audit recommendations in paragraph 46 of the Audit Report that significant design changes after the commencement of a works contract should be avoided as far as possible and that the contractor should be informed of the design changes as soon as practicable. The Committee also noted that according to paragraphs 37 and 45 of the Audit Report, the KCV Engineer had not informed the KCV Contractor of the design changes in a timely manner, because he did not wish the KCV Contractor to stop work. As a result, some of the KCV Contractor's alternative design work was rendered abortive and he had to redesign the foundations. Since public money was involved, the Committee asked:

- whether the design changes of the Airport Railway were unavoidable;

- whether the KCV Contractor had been informed of such changes in a timely manner; and

- why the Airport Railway works had not been postponed.

14. The **Director of Highways** said that:

- in most cases, significant design changes should be avoided after a works contract had commenced;

- in the case of the Airport Railway, there was a strong justification for effecting the changes, because the design changes requested by the MTRC were essential to the operation of the Airport Railway;

- in August 1993, the KCV Contractor was not formally informed of the design changes because the KCV Engineer, though being aware of the MTRC's request, was not able to provide any firm data for revising the design. At the same time, the KCV Engineer could not ask the KCV Contractor to stop the design work because there was a possibility that the MTRC would not effect any changes; and

- the KCV Contractor was informed of the design changes as soon as confirmation was received from the MTRC.

15. The **Secretary for Works** also said that:

- even if the KCV Contractor had been asked to stop work, he could still submit claims. That was why the Government asked the KCV Contractor to continue with his work, pending the MTRC's decision on any design changes; and

- the Airport Railway was a very special works project. As it generally followed the same alignment as that of Route 3, it had to tie in with the latter's development timetable.

16. **Mr Jack SO Chak-kwong**, **Chairman**, **Mass Transit Railway Corporation**, explained that:

- in 1992, there was still much debate as to whether Hong Kong should have the new airport only or an airport and an airport railway. Because of the uncertainty surrounding the project, the detailed design work for the Airport Railway only started in 1993;

- the MTRC was more certain about the prospect of the Airport Railway at the end of 1993 and early 1994; and

- the MTRC had taken into account possible claims resulting from the uncertainties. Professional standards had been followed in working out the contingency provision. At the end, the MTRC managed to finish the whole project within the original budget of $35 billion.

17. At the request of the Committee, the **Director of Highways** further explained in his letter of 17 May 1999 in ***Appendix 23*** why he had accepted the KCV Engineer's proposal in August 1993 that the KCV Contractor should not be informed of the design changes and whether he had the authority to do so. The main points are summarised as follows:

- the MTRC indicated on 29 April and 16 June 1993 respectively that refuge siding and heavier track form for the Airport Railway were required. By the end of August 1993, the KCV Engineer was still preparing the re-design work and the revised loading schedule. No firm data were available. The judgement at that time was that if the KCV Contractor were informed of the design changes, he would have stopped his design work immediately pending the provision of firm data and would have submitted a claim for delays and idling of his other construction works. The overall cost implication could be much more severe than that of the abortive design work;

- as firm data were not available, it was not possible to ascertain whether the KCV Contractor's alternative design would become abortive because extra safety margins might have been incorporated. If the extra safety margin could accommodate the design changes, the Contract would only suffer nominal delay. Unfortunately, it did not turn out to be the case;

- it was not possible to instruct the KCV Contractor to incorporate the changes into the Airport Railway works before FC's approval was obtained in September 1993; and
- the Highways Department had the authority and duty to manage the Contract in such a way that Government's interests were protected. This included the management and release of suitable information for the execution of the Contract.

18. In response to the Committee's question on who made the decision to proceed with the project when the prospect of the Airport Railway was still uncertain, the **Secretary for Works** said that the construction of the Mainline Viaduct i.e. the non-Airport Railway works had to proceed. The crux of the matter was whether and when an Airport Railway should be built. This decision was most crucial. If the Airport Railway was to be built in 1993, the Viaduct had to be designed in such a way that it was sufficiently strong to carry a railway. If the Airport Railway was to be built in 1996, the project was still feasible although there would be more constraints. On the other hand, the Viaduct would have been designed without taking into consideration the loading required for the Airport Railway.

19. Regarding the Committee's enquiry as to whether the design changes were required because of a mistake made somewhere, the **Project Director**, **Mass Transit Railway Corporation**, said that:

- tenders for the KCV Contract were invited on the basis of the alignment developed in the feasibility study and the Government's preliminary design. It was assumed at that time that the Airport Railway would use the track form design adopted for the Island Line. The detailed design work that would meet the service requirements of the Airport Railway did not commence until late 1992 and the information on track form and refuge siding was not available to the MTRC until March and April 1993; and

- if the Airport Railway works were not incorporated into the KCV Contract, the construction of the Airport Railway could not start until after the completion of the Mainline Viaduct. The Airport Railway works would be delayed by at least

two and a half years. The crucial consideration was whether the Airport Railway works should be incorporated in the KCV Contract. The alternatives for the MTRC were either to accept the consequential costs arising from the Contract or to accept a two-and-a-half-year delay in the Airport Railway project. It was a simple decision, notwithstanding the fact it would increase the cost.

20. Having regard to the information provided by the Project Director, Mass Transit Railway Corporation, the Committee invited the Director of Audit to comment on the necessity for changing the design. **Mr Dominic CHAN Yin-tat**, **Director of Audit**, pointed out that the Highways Department was aware of the design changes in mid-1993. However, the KCV Contractor was only informed of such changes a few months later. There was a gap of a few months. Furthermore, the MTRC requested late changes even after the KCV Engineer had instructed the KCV Contractor on 30 September 1993 to incorporate the Airport Railway works into the KCV Contract.

21. The **Chairman** and the **Project Director**, **Mass Transit Railway Corporation**, clarified that the information on track form and refuge siding was conveyed to the Highways Department in April 1993. At that stage, the Government was funding the Airport Railway works. It was therefore necessary for the Government to seek the FC's approval for funding the changes. The approval was obtained in September 1993. It was at that point in time that the KCV Contractor was instructed to incorporate the Airport Railway works into the KCV Contract.

22. In response to the Committee's question as to why it had taken a few months for the Government to instruct the KCV Contractor, the **Director of Highways** said that the MTRC decided to make the changes in March and April 1993. The KCV Engineer was then given time to prepare the design. As far as he could remember, a special FC meeting was convened in September 1993 to scrutinise the funding application for adjusting the scope of the relevant public works contracts. This was probably related to the requirement in the KCV Contract that the Government had to decide whether to incorporate the Airport Railway works in the Contract on or before 2 October 1993. It was only after the approval of the FC was obtained that the Government could give instruction to the KCV Contractor. Even after September 1993, the KCV Engineer had to prepare a lot of design work and drawings.

23. The Committee noted the Audit observation in paragraph 33 of the Report that during the construction stage, the KCV Contractor requested the KCV Engineer to provide loading information of the ramps, the Airport Railway bridges and the substructures, which

were designed by the KCV Engineer. The KCV Engineer considered that he had no contractual obligation to provide the requested loading information. In the light of the different views between the KCV Contractor and the KCV Engineer concerning the provision of the loading information, the Committee asked whether the terms of the KCV Contract were adequate regarding the provision of information and who would be responsible if there was an inadequacy.

24. The **Director of Highways** said that the cause of the problem was the alternative design. If the KCV Contractor used an alternative design, he should be fully responsible for calculating all the loadings. The KCV Engineer should not provide the loading information to the KCV Contractor. This was because if something went wrong, the KCV Contractor might blame the KCV Engineer for having provided inaccurate loading information. The **Secretary for Works** added that the original intention was not to use an alternative design. The alternative design proposed by the KCV Contractor was accepted as there were advantages in doing so. If this had been known in advance, then the arrangements for the provision of loading information would have been included in the Contract.

25. According to paragraph 49 of the Audit Report, both the KCV Contract and the Rambler Channel Bridge (RCB) Contract were awarded on the basis of an alternative design. As the KCV was connected to the RCB in the north, interface works were required. When interface problems occurred, both the KCV Contractor and the RCB Contractor considered that they had no specific obligations to amend their designs to accommodate the design of the other party. In this regard, the Committee requested the Director of Highways to provide his comments in writing on:

- whether the Highways Department had a responsibility to ensure that the design and construction of the works under the two Contracts were integrated and co-ordinated;

- whether a specific provision was included in the two Contracts to specify the obligations of the Contractors to liaise and co-ordinate with other parties concerned with regard to the design of the respective contracts and the handling of interface works; and

- why the Legal Adviser of the NAPCO advised in April 1995 that "General Conditions of Contract Clause 37 might not be as strong as anticipated if it was challenged at law".

26. In his letter of 17 May 1999 in ***Appendix 23***, the **Director of Highways** said that:

- there was no question that the Highways Department had a responsibility to ensure that the design and construction of the works under the KCV and RCB Contracts were integrated and co-ordinated. As substantial savings in the contract price were achieved by accepting the alternative design of the two Contracts within a short period of time, the eventual claims associated with the interface problems should be considered as a necessary cost;

- in respect of the handling of interface works, specific provisions were included in the KCV and RCB Contracts to deal with the detailed handover arrangement of works areas at the interface. The obligations of the Contractors to liaise and co-ordinate with other parties concerned with respect to the designs of the two Contracts were governed by General Conditions of Contract Clause 37(2). The specifications of the Contracts were produced on the basis of the original design of the Engineer and the provision of any loading information from either Contractor was not required. When the two alternative designs were accepted, General Conditions of Contract Clause 37(2) was considered adequate to deal with the new circumstances; and

- General Conditions of Contract Clause 37 was designed to place certain responsibilities on contractors to act "reasonably" to resolve interface problems with adjacent contractors. Clause 37(2) concerned not only constructions but also designs of the works. Although Clause 37 appeared to impose fairly straight-forward and clear obligations, experience showed that matters of consultation, liaison and co-operation between separate contractors, who had no contractual relations with each other, were difficult. The Legal Adviser of the NAPCO considered in April 1995 that for the Government to successfully defend a claim in arbitration by relying on General Conditions of Contract Clause 37(2) could not be guaranteed because:

  (i) it was difficult to establish on a balance of probabilities that a contractor had not acted "reasonably"; and

  (ii) in a difficult situation such as the KCV and RCB interface where a "meeting of the minds" of the two adjacent contractors was not forthcoming, an arbitrator would find that it was incumbent on the Engineer and Employer to intervene at a reasonably early stage to mitigate the consequences of the apparent impasse.

27. With reference to paragraph 75 of the Audit Report, the Committee noted that in order to ensure maximum safety to vehicles and passengers, the Highways Department decided not to permit the KCV Contractor to erect the precast concrete units over live traffic. The Committee asked whether it was clearly stated in the Contract or whether it was a general professional requirement for the KCV Contractor to erect such precast concrete units only at night. The **Director of Highways** said that the Contract stipulated that the KCV Engineer had absolute discretion to prohibit the Contractor from carrying out certain works because of safety concerns. However, if prohibition of works, such as the erection of pre-cast concrete units over live traffic, was not clearly specified in the Contract, the KCV Contractor might have cause to argue about the prohibition and submit claims. The KCV Contractor had not indicated that these works had to be carried out at night. In fact, the KCV Contractor had said that the method was very safe and had been successfully carried out in France. However, considering that U-beams as heavy as 140 tonnes would be taken across Kwai Chung Road where the traffic was heavy during day time, the Highways Department decided to reject the request for safety reasons.

28. **Conclusions and recommendations** The Committee:

- express concern that:

  (i) the uncertainty surrounding the Airport Railway, due to the Government's sudden decision to embark on the Airport Core Programme, triggered off the following problems:

    (a) the Kwai Chung Viaduct (KCV) Contract was awarded before the completion of the detailed design;

    (b) the design changes in the KCV Contract had given rise to additional costs and disruption to the works programme;

    (c) the fact that information on design changes was supplied only at a late stage left the project open to contractor's claims and made it difficult to control costs; and

    (d) the Government and the Mass Transit Railway Corporation (MTRC) had to bear $365 million as additional cost to the KCV Contract;

  (ii) when funding approval was sought in September 1993 to extend the scope of the KCV Contract to include the Airport Railway works, the Finance Committee was not informed that the detailed design of the Airport

Railway had not yet been completed prior to tendering and that the design changes requested by the MTRC were not yet finalised; and

(iii) the responsibility and obligations of the parties concerned, and the arrangements for the provision of critical design loading information of the Engineer's original design were not stated clearly in the KCV Contract which was awarded on the basis of an alternative design;

- note that the Director of Highways and the Chairman of the MTRC had admitted at the hearing that they were aware that the design changes of the Airport Railway works would attract claims from the KCV Contractor;

- urge the Director of Highways to ensure that the detailed design of future capital works projects is complete before tenders are invited, as required by Works Bureau Technical Circular No. 6/91;

- recommend that the Secretary for Works and the Secretary for the Treasury should inform the Finance Committee of any non-compliance with the requirements of relevant Works Bureau Technical Circular, estimate the foreseeable financial risks involved and specify the contingency allowance for covering these risks when seeking funding approval for future capital works projects;

- express grave concern that:

  (i) the Highways Department, as an employer, had failed to intervene at an early stage to mitigate the consequences arising from the fact that the design and construction of the works under the KCV Contract and the Rambler Channel Bridge Contract were not fully integrated and co-ordinated, even though it was aware that the two Contracts were awarded on the basis of an alternative design;

  (ii) the specific provisions included in the contracts had not been effective in achieving the practical result, for the purpose of arbitration, of distinguishing the respective responsibilities of the contractors concerned for handling interface works; and

  (iii) no explicit provision was included in the KCV Contract to prohibit the contractor from carrying out hazardous works over live traffic;

- recommend that a specific provision should be included in the Works Bureau Technical Circular to prohibit the carrying out of hazardous works over live traffic in future works contracts, so as to ensure maximum safety during construction and to obviate potential claims against the Government; and

- note that the Director of Highways has agreed to take more proactive action to resolve interface problems promptly in case the contractors concerned cannot properly liaise and co-ordinate with each other in accordance with the terms of the contracts.

Chapter 5

Control of obscene and indecent articles by the Television and Entertainment Licensing Authority

The Committee noted that the Audit review had examined the efficiency and effectiveness of the Television and Entertainment Licensing Authority (TELA) in monitoring the publication and public display of obscene and indecent articles, and sought to ascertain whether there was room for improvement in the TELA's enforcement of the Control of Obscene and Indecent Articles Ordinance (COIAO).

2. The Committee were concerned about the TELA's enforcement of the COIAO. Section 36B of the COIAO empowers the TELA's inspection staff to seize, remove and detain:

- any article in a public place, in respect of which he reasonably suspects that an offence under the COIAO has been committed or is being committed; and

- anything in a public place, which he reasonably suspects to be, or to contain, evidence of the commission of such an offence.

The Committee noted that this section was added to the COIAO when the Control of Obscene and Indecent Articles (Amendment) Bill 1995 (Amendment Bill 1995) was passed by the former Legislative Council on 19 July 1995.

3. However, paragraph 40 of the Audit Report revealed that although the TELA's inspection staff had been given the power of seizure since 1995, they had never exercised such power except in joint operations with the Hong Kong Police Force (Police). The Committee also noted from paragraph 45 of the Audit Report that while the Commissioner for Television and Entertainment Licensing had accepted Audit's recommendation to instruct the TELA's inspection staff to exercise their power of independent seizure, he had also said that the exercise of such power would depend on the actual operational requirement. The Committee asked why the TELA had not exercised the power of seizure independently and what the TELA's stance was on the exercise of such power.

4. **Mr Eddy CHAN**, **Commissioner for Television and Entertainment Licensing**, said that:

- the TELA was indeed empowered by law to seize articles which were suspected to have breached the provisions of the COIAO;

- he understood that the power of seizure was conferred upon the TELA to enable it to deal with obscene and pornographic posters such as posters related to Category III films, which were widely displayed in the territory at that time. However, Class III posters associated with Category III films were now required to be censored before they could be published. Under the circumstances, the need for the TELA to exercise the power of seizure had decreased;

- the power of seizure had not been exercised by the TELA because joint operations were often carried out by the TELA together with the Police and the Customs and Excise (C & E) Department, during which the latter two departments would seize articles when necessary. Hence, there was no need for the TELA's inspection staff to exercise such power independently;

- the TELA had accepted Audit's recommendation. However, as the TELA had not exercised the power independently before, he would rather adopt a cautious approach and exercise the power in the light of actual operational needs; and

- to help prepare the TELA's inspection staff for exercising the power, the Department of Justice was being consulted with a view to promulgating guidelines to advise the staff on the legal problems involved.

5. The Committee pointed out that under the law, the TELA was not only empowered to deal with printed articles, but also other forms of articles which contained obscenity and indecency such as video compact discs (VCDs). As revealed by Audit, the TELA had not taken extensive action against pornographic VCDs despite their proliferation in recent years. The Committee asked what had prevented the TELA from taking active enforcement action.

6. **Mrs Rita LAU NG Wai-lan**, **Deputy Secretary for Information Technology and Broadcasting**, and the **Commissioner for Television and Entertainment Licensing** said that:

- in order to achieve maximum results with limited resources, there had all along been a division of work among the TELA, the Police and the C & E Department in the enforcement of the COIAO;

- the TELA, being a civilian department, was mainly responsible for monitoring printed articles. It monitored the contents of articles to see if statutory requirements had been breached. The Police dealt with the sale of obscene and

indecent articles at retail outlets and took enforcement actions against pornographic VCDs. The C & E Department seized obscene and indecent articles at entry points and in the course of anti-piracy operations;

- as the retail outlets, including VCD shops, were often backed by organized crime syndicates, the assistance of the Police was required for raiding the outlets and seizing articles. Moreover, the Police had the widest penetration in the community and was a professional and efficient law-enforcement agency. It would be more appropriate for the TELA to carry out enforcement operations together with the Police so that they could seize articles, conduct investigations and effect arrests at the same time;

- although it appeared that the TELA had not exercised the power of seizure, it had actually enforced the law through the joint operations with the Police; and

- in view of the increase in the number and popularity of articles published in the form of VCDs, the TELA would step up the inspection and prosecution of retail outlets selling pornographic VCDs. It would increase the referral of dubious VCDs to the Obscene Articles Tribunal (OAT) for classification.

7. Noting that section 36B of the COIAO was enacted in 1995, the Committee queried why the TELA had not issued guidelines on the exercise of the power of seizure earlier. The Committee further pointed out that at the time when the Amendment Bill 1995 was being considered, the Administration had reservations about conferring the power of seizure on the inspectors of the TELA. Section 36B was subsequently added to the COIAO due to the strong view of Legislative Council Members that it would definitely facilitate the work of the TELA if its inspection staff were given such power. Against this background, the Committee asked whether the TELA's inaction over the past four years was to boycott the Legislative Council's decision.

8. In response, the **Deputy Secretary for Information Technology and Broadcasting** said that:

- it had never been the Administration's intention to boycott the Legislative Council's decision and it was indeed the Administration's duty to enforce the COIAO; and

- back in 1995, there had been lengthy debates as to whether the TELA's inspectors should be given the power of seizure. At that time, the Administration had concerns about the idea because the TELA was a civilian

department. Conferring the power of seizure on the TELA's inspectors would have implications on their ranking, qualifications and training.

9. With reference to the TELA's view that it would be more appropriate for it to conduct joint raiding operations with the Police, the Committee asked about the Police's work in this aspect. **Mr WONG Tsan-Kwong**, **Acting Commissioner of Police**, replied that:

- with regard to the control of obscene and indecent articles, including pornographic VCDs, there was a certain degree of duplication in the work of the different enforcement agencies. As such, there was a consensus on how the work should be divided among them;

- the Police, being a law-enforcement agency, had the power to seize obscene and indecent articles and deal with retail outlets selling pornographic VCDs. However, as VCDs were classified, sometimes it was difficult for the Police to distinguish from the wrappers or the descriptions thereon whether a VCD was pornographic and whether the statutory provisions had been breached; and

- hence, the Police and the TELA worked very closely. When the TELA's inspection staff identified retail outlets selling pornographic VCDs during their surveillance inspections, they would refer the cases to the Police for further investigation.

10. The Committee noted that it was the TELA's practice to refer suspected cases of obscene and indecent VCDs detected during its routine surveillance inspections to the Police for taking enforcement action. The Committee asked whether the Police considered it an efficient arrangement whereby a separate government department conducted surveillance inspections and, through correspondence, forwarded the intelligence to the Police for taking enforcement action. The **Acting Commissioner of Police** said that it would be most efficient if one single department could carry out surveillance inspections and launch enforcement operations.

11. In this regard, the Committee noted from paragraph 58 of the Audit Report that on average, the time taken by the Police for launching enforcement operations after receiving the TELA's referrals was about 28 days. In the Kwai Tsing district, the average time taken by the Police was 57 days. In view of the long time lapse, the Committee asked how the TELA and the Police would co-operate to ensure that timely enforcement action would be taken. The **Commissioner for Television and Entertainment Licensing** said that the TELA would step

up liaison with the Police. From now on, the TELA would compile a monthly report setting out the retail outlets selling obscene and pornographic articles identified by the TELA during surveillance inspections. The report would be forwarded to both the Police Headquarters and various Police districts, so that the Police would have an overall picture about the number of cases which had been or had yet to be followed up.

12. The Committee further asked what actions the TELA would take to ensure that the Police would conduct prompt enforcement operations after being notified by way of the monthly reports. The **Commissioner for Television and Entertainment Licensing** replied that:

- the planning of a joint enforcement operation did take time; and

- as revealed in the Audit Report, in the past, the TELA did not take follow-up action after referring suspected cases to the Police. In future, the TELA would hold joint meetings with the Police every month to review the progress of the referred cases.

13. The **Deputy Secretary for Information Technology and Broadcasting** said that although, in some cases, timely enforcement action had not been taken, planning had already started during the period between the referral of a case to the Police and the actual launching of an enforcement operation.

14. The **Acting Commissioner of Police** said that:

- the TELA had all along provided intelligence on the blackspots selling obscene and indecent articles to the Police districts directly;

- in many cases, before the referral was received from the TELA, the Police had already been aware of the existence of such outlets. Sometimes, enforcement action had been taken and some cases might be pending court trials; and

- hence, upon receipt of the TELA's referrals, the Police would check whether it had knowledge about the outlets in question, investigate the types of articles being sold and the background of the operators. Raiding operations would then be launched, articles seized and offenders prosecuted.

15. Regarding Audit's concern that in some cases, prosecution action had not been taken against repeated offenders, the Committee noted from paragraph 42 of the Audit Report that the TELA only issued a warning letter to a publisher in 1998 even though the publisher was convicted nine times under the COIAO in 1997. The Committee asked about the TELA's response to Audit's view that issuing warning letters to offenders instead of taking prosecution action was a too lenient way of enforcing the law. The **Commissioner for Television and Entertainment Licensing** said that:

- the TELA usually issued warning letters to offenders who had committed minor technical breaches of the COIAO. For example, the law required Class II articles to be placed inside wrappers with a warning notice covering not less than 20% of the cover. Sometimes the size of the warning notice on the cover was less than the 20% statutory requirement. As the breach was relatively not serious, the TELA would issue warning letters instead of prosecuting the offenders; and

- however, he accepted Audit's recommendation and would take prosecution action against publishers once the COIAO was contravened.

16. Paragraphs 23 and 24 of the Audit Report revealed that no systematic training had been provided to the TELA's inspection staff as to how to discern obscene and indecent articles. Thus, the staff had to rely on their own judgement and experience to determine whether an article was obscene or indecent. Moreover, there was also no procedural guidance provided to the inspection staff for performing their monitoring duties under the COIAO. The Committee queried how, in the absence of proper guidelines, the TELA's inspection staff could carry out their duties effectively and judge whether an article was in breach of the law.

17. The **Deputy Secretary for Information Technology and Broadcasting** said that:

- under the COIAO, the OAT, and not the TELA, was the ultimate authority for determining whether an article was in breach of the law. The OAT was also responsible for classifying the decency of articles. However, the TELA's inspection staff had the ability to assess whether or not an article was indecent by virtue of their experience gained through past cases and past OAT decisions;

- although no guidelines had been issued, there were internal documents on various subjects in the TELA which contained instructions for the inspection staff to follow in carrying out surveillance inspections. In addition, the

inspection staff received guidance on individual cases. Thus, they did have the knowledge and experience to conduct inspections;

- the TELA accepted Audit's recommendation and was in the process of compiling the information contained in the various internal documents into a guidance manual, so as to assist the inspection staff in carrying out their enforcement actions; and

- the TELA had also sent staff to the OAT to observe how the articles were classified and to visit the OAT's repository so as to obtain a better understanding of the OAT's classification standards.

18. At the Committee's request, in her letter of 18 May 1999 in ***Appendix 24***, the **Deputy Secretary for Information Technology and Broadcasting** provided an internal document of the TELA entitled "Duties of the COIAO Inspection Teams" for the Committee's reference. In summary, the document set out the operational procedures for the TELA's inspection staff to follow in performing the following duties:

- routine monitoring of articles;

- attending court hearing and carrying out surveillance inspection;

- compiling monthly statistics, handling complaints and enquiries, and visiting local web sites and news groups; and

- carrying out surprise checks and monitoring performance.

19. In her letter of 18 May 1999, the **Deputy Secretary for Information Technology and Broadcasting** also informed the Committee of the training the TELA provided to its staff on article classification standards. She said that:

- weekly and monthly case conferences would be held for the TELA's inspection teams. During these conferences, the inspection staff would be required to take note of the articles which had been referred to the OAT for classification during the previous week or month; and

- the aim of the case conferences was to ensure that all inspection staff had the opportunity to study past OAT decisions in depth. This would enable them to acquire a better understanding of the standards adopted by the OAT as well as

any changes in trend, which might serve as a basis for deciding whether a particular article should be referred to the OAT for classification.

20. The Committee further asked whether the guidance manual would be made public, having regard to some concerned groups' previous demand for higher transparency of the enforcement standards. The **Deputy Secretary for Information Technology and Broadcasting** replied that she would have to carefully consider whether making the manual public would adversely affect the TELA's enforcement action because the manual might touch on the TELA's strategy in launching enforcement operations. On the contents of the manual, she would seriously take into consideration the Committee's advice to consult the Police and the C & E Department, with a view to allaying the concerns of the TELA's inspection staff.

21. With reference to the TELA's routine surveillance inspections, the Committee enquired about the time taken by the inspection teams to complete a cycle of inspecting all publication outlets. The **Commissioner for Television and Entertainment Licensing** informed the Committee that:

- there were over 3,600 publication outlets under the surveillance of the TELA's inspection teams. Previously, it was the TELA's target to inspect each outlet at least twice a year;

- nevertheless, he accepted Audit's view that the TELA lacked a strategy for inspecting more frequently those outlets which were prone to contravene the provisions of the COIAO; and

- as such, he had adopted Audit's recommendation and would classify the publication outlets into high-risk and low-risk outlets. Those which had breached the COIAO twice or more in the past six months would be regarded as being high-risk. The number of inspections on such outlets would be increased. Outlets which had not breached the COIAO in the past six months would be regarded as being low-risk and would still be inspected no less than twice a year.

22. In view of the public concern about the proliferation of obscene and indecent publications and pornographic VCDs in the community, the Committee asked whether the Administration considered that there was a need to change its present strategy so as to cope

with the situation more effectively. The **Deputy Secretary for Information Technology and Broadcasting** said that:

- the Administration had to strike a balance between the need to protect young people from exposure to undesirable materials and the access of adults to materials they preferred;

- tackling the problem by enforcement alone was not a positive approach. In fact, schools and parents also had a role to play. They should give proper guidance to young people; and

- the Administration had started a review on the COIAO to examine whether and how it should be amended and improved. In this connection, the Administration had conducted a public opinion survey on the operation of the COIAO and would submit a report to the Information Technology and Broadcasting Panel of the Legislative Council. After analysing the findings of the survey, the Administration would formulate policy proposals and conduct extensive public consultation.

23. With regard to the conduct of public opinion surveys, paragraph 63 of the Audit Report revealed that as early as February 1987, the then Chief Secretary promised that public opinion surveys would be carried out periodically to ascertain the community's standards on the classification of articles. Funds were provided in 1986-87 and 1989-90 in the TELA's Annual Estimates of Expenditure. However, such a survey did not commence until September 1998. The Committee also noted that recently, some comic books which contained objectionable contents had been classified as Class I. Under the circumstances, the Committee queried whether the TELA could fully follow the changes in the standards of morality, decency and propriety generally accepted by members of the community in the past 12 years without conducting public opinion surveys, and how the standards of the public could be reflected to the OAT. The Committee further asked whether there had been dereliction of duty on the part of the Administration, resulting in the long delay in conducting the surveys.

24. The **Deputy Secretary for Information Technology and Broadcasting** informed the Committee that:

- the OAT was an independent judicial body and the ultimate authority for determining and classifying the decency of articles. Although no public

opinion survey had been conducted in the past decade, the OAT was not out of touch with the standards of the community. There were lay adjudicators who advised the OAT on the generally accepted moral and decency standards in the community. With the enactment of the Amendment Bill 1995, the number of lay adjudicators in the OAT had increased and their representativeness had also been broadened;

- while she appreciated that the classification standards generally accepted by the community would change with the passage of time, public opinion surveys might not be the only effective means for gauging such changes. The standards reflected through an opinion survey would become outdated soon with changes in public opinion;

- in considering whether to conduct public opinion surveys periodically in future, the Administration would take into account relevant factors, such as the time required for conducting surveys; and

- with reference to the classification of comic books, the Administration noted from the findings of the opinion survey recently conducted by the TELA that a lot of people had confused the article classification systems under the COIAO with the classification system for films under the Film Censorship Ordinance. This was particularly the case with regard to nomenclature. While a Category I film was suitable for persons of all ages, an article classified as Class I only meant that it was neither obscene nor indecent. It did not follow that the article would be suitable for persons of all ages. The Administration would strengthen efforts in enhancing the public's knowledge in the article classification system.

25. Regarding the public perception of the prevailing standards of morality, the Committee noted from the Administration's paper to the Council's Information Technology and Broadcasting Panel in May 1999, in ***Appendix 25***, that one of the findings of the public opinion survey conducted by the TELA was that "standards for the classification of articles in newspapers, magazines and comic books with indecent elements did not appear to match the more conservative standard of the respondents".

26. In her letter of 18 May 1999, the **Deputy Secretary for Information Technology and Broadcasting** gave the historical background and an account of the reasons for not conducting periodic public opinion surveys on community standards, despite the commitment made by the then Chief Secretary in 1987 to do so. She said that:

- a provision of $150,000 had been made in the TELA's 1987-88 Estimates of Expenditure for conducting a public opinion survey in that financial year. However, at an internal meeting on 24 September 1987, the then Secretary for Administrative Services and Information decided that there was no need to conduct the survey because the establishment of the OAT was specifically meant to reflect community standards. Hence, no surveys were conducted by the TELA in 1987-88 and the provision was subsequently deleted from the Estimates;

- in 1994, there was wide public concern about the proliferation of comic books containing indecency and violence targeted at young people. The need to gauge public opinion on community standards re-surfaced. Subsequently, there were discussions and debates between the Administration and the Judiciary Administrator as to whether the OAT or the Administration should conduct the public opinion survey. On the other hand, the Judiciary Administrator considered that, given the judicial role of the OAT, it would be inappropriate for the OAT to conduct the survey. The Administration was concerned about the implication and perception of the Administration imposing standards on the OAT which was an independent and judicial body; and

- it was not until 1996 that the then Secretary for Broadcasting, Culture and Sport decided that the TELA should commission such a survey. The survey was subsequently initiated in the last quarter of 1998.

27. After the public hearing, the Committee requested the Director of Administration to compile a list of the heads of the policy branches/bureaux and the TELA for the period from February 1987 to September 1998 who had the responsibility for conducting the public opinion surveys following the undertaking of the then Chief Secretary in 1987. In her letter of 17 May 1999, in ***Appendix 26***, the Director of Administration provided the list of the relevant officers.

28. **Conclusions and recommendations** The Committee:

- acknowledge that actions are being taken by the Television and Entertainment Licensing Authority (TELA) to compile a guidance manual to assist its inspection staff in performing surveillance and monitoring duties under the Control of Obscene and Indecent Articles Ordinance (COIAO), and to develop training materials on the article classification standards;

- urge the TELA to make public the guidance manual so that the public can be informed of the classification standards and monitor the enforcement of the provisions under the COIAO more effectively;

- express serious dismay that:

  (i) although section 36B of the COIAO, which empowers the TELA's inspection staff to seize indecent articles, was passed by the former Legislative Council on 19 July 1995, the power of seizure has never been exercised by the inspection staff independently in the past four years;

  (ii) the Administration has not endeavoured to seek the appropriate staffing complement, provide suitable training or issue guidelines to facilitate the exercising of the power of seizure by the TELA's inspection staff;

  (iii) the TELA's enforcement efforts have not been effective in deterring the circulation of obscene and indecent articles, which have been flooding the community; and

  (iv) the TELA has failed to keep up with emerging technologies which have given rise to new forms of publications, resulting in the proliferation of pornographic video compact discs (VCDs) in recent years;

- consider that the TELA should be held partly responsible for the rampant growth in the circulation of obscene and indecent articles in the community;

- urge the Administration to:

  (i) conduct a thorough investigation into the following findings to ascertain whether they were caused by corruption, triad influence or simply dereliction of duty on the part of the TELA's management:

    (a) the lack of strategic planning for routine surveillance inspections to ensure that publication outlets which are prone to contravene the COIAO are inspected more frequently;

    (b) the lack of records indicating the retail outlets covered in past inspections;

    (c) the absence of a performance standard on the number of inspections to be carried out by each inspection staff;

(d) the lack of prompt prosecution against some publishers who have contravened the COIAO; and

(e) the number of pornographic VCDs monitored by the TELA only made up a small proportion of the total number of articles it monitored; and

(ii) consider, in the light of the investigation results, the need for disciplinary action or criminal prosecution;

- urge the TELA to promptly put in place measures and mechanisms for performing its entrusted duties under the COIAO which have not been properly carried out, including:

  (i) formulating a strategic plan for inspecting more frequently high-risk publication outlets;

  (ii) establishing a performance standard for routine surveillance inspections to monitor the performance of its inspection staff;

  (iii) issuing guidelines and instructing its inspection staff to exercise their power of seizure under the COIAO when they reasonably suspect that the COIAO has been breached; and

  (iv) stepping up the monitoring of pornographic VCDs in routine surveillance inspections and referring a larger number of dubious VCDs to the Obscene Articles Tribunal for classification;

- condemn the then Secretary for Administrative Services and Information and the officers holding equivalent posts in the subsequent ten years, as detailed in ***Appendix 26***, for failing to conduct periodic public opinion surveys to ascertain the community's standards on the classification of articles in the past decade despite the commitment made in 1987 by the then Chief Secretary to do so, and for not giving a proper account to the former Legislative Council even when the then Administrative Services and Information Branch subsequently decided internally that such surveys were not to be conducted;

- express concern that the findings of the recent public opinion survey, which was only conducted in 1998, revealed that the standards of the Obscene Articles Tribunal for the classification of articles in newspapers, magazines and comic

books with indecent elements did not appear to match the more conservative standard of the respondents;

- note that the Administration has undertaken to formulate policy proposals and other related regulatory measures for public consultation in 1999 in the light of the findings of the survey;

- urge the Administration to conduct similar public opinion surveys regularly in future to gauge the public perception of the moral standards generally accepted by the community;

- urge that the Commissioner for Television and Entertainment Licensing should:

  (i) having regard to the possible role of non-government organisations, formulate a long-term strategy for the TELA's publicity and educational activities;

  (ii) set useful and clear targets for measuring and monitoring the output of the TELA's publicity and educational activities; and

  (iii) conduct formal evaluations periodically to assess the extent to which the TELA's publicity and educational activities have achieved their targets and objectives; and

- wish to be kept informed of:

  (i) the progress in producing the guidance manual;

  (ii) the results of the aforesaid investigation and follow-up actions taken; and

  (iii) the progress of the public consultation to be conducted in 1999.

Chapter 6

The Administration of the Comprehensive Social Security Assistance and Social Security Allowance Schemes

The Committee noted that the Audit review of the administration of the Comprehensive Social Security Assistance (CSSA) and Social Security Allowance (SSA) Schemes covered the following areas:

- determination of the eligibility of beneficiaries;
- measures to safeguard against fraud, abuse and the wastage of government funds;
- the effectiveness of data-matching in the fight against welfare fraud and abuse;
- prosecution of suspected welfare offenders; and
- risk management in the Social Welfare Department (SWD).

2. The Committee noted from paragraph 2.13 of the Audit Report that Audit only discovered two cases in which the welfare benefit applicants had disposed of their assets prior to the submission of an application for welfare benefit. As regards the grant for spectacles, in the majority of the cases reviewed by Audit, the beneficiaries only claimed the grant once in a 24-month period. According to these figures, the Committee were unable to identify a serious problem of social security fraud and abuse.

3. However, the Committee noted that in December 1998, the Director of Social Welfare stated in the Support for Self-reliance Report, i.e. Report on the Review of the CSSA Scheme, that "there is probably much more fraud than is ever detected". The Committee asked about the basis on which the remark was made and whether there was statistical evidence to prove that the fraudulent situation was much more serious than detected. In response, **Mr Andrew LEUNG Kin-pong**, **Director of Social Welfare**, and **Mrs Rachel Cartland**, **Assistant Director (Social Security)**, said that:

- the remark was made in order to draw the public's attention to the problem;
- it was based on the experience in other parts of the world to illustrate that social security fraud was difficult to detect. For example, it was difficult to detect undeclared bank accounts and undeclared employment, which were of common occurrence;

- although welfare frauds were not prevalent and the rates of social security fraud in Hong Kong were rather low, it was believed that, in common with other countries with developed social security system, the number of undetected cases was probably more than the number of detected cases; and

- the remark did not mean that social security fraud was a common problem or the situation had reached a serious level in Hong Kong.

4. The Committee requested the Director of Social Welfare to provide the rates of social security fraud in overseas countries for the Committee's reference. In his letter of 15 June 1999, in ***Appendix 27***, the **Director of Social Welfare** said that:

- there were multitudes of social welfare schemes in each overseas country catering for the needs of different socially disadvantaged groups and the schemes were unique;

- the social welfare fraudulence rates in term of the total number of social welfare assistance cases in each country varied with each scheme and from year to year. The number of fraudulence cases identified as worthy of consideration for prosecution and the actual number of cases prosecuted also varied greatly among schemes and countries; and

- research had indicated that a fraudulence rate of 8% of a particular scheme's total annual expenditure was not uncommon in some overseas countries.

5. The Committee considered that while social security fraud and abuse should not be tolerated, the gravity of the problem in Hong Kong should be put in proper perspective. The Committee noted that according to Table 8 of the Audit Report and the Director of Social Welfare's letter of 21 May 1999, in ***Appendix 28***, the number of fraud cases identified and prosecuted in the past six years, as well as the amount of overpayments involved were as follows:

Year	Number of fraud cases	Amount of overpayment involved in the fraud cases ($000's)	Number of cases prosecuted	Amount of overpayment involved in the prosecuted cases ($000's)
1993-94	126	1,220	0	0

1994-95	73	1,249	0	0
1995-96	55	831	2	18
1996-97	21	733	2	40
1997-98	90	1,763	14	379
1998-99	120	3,110	43	1,197

Based on the above figures, the Committee questioned whether there was really a serious problem of fraud with regard to the claiming of CSSA and SSA.

6. In response, the **Director of Social Welfare** stated that:

- there were currently about 230,000 CSSA cases and 500,000 SSA cases with a total of some 860,000 beneficiaries;

- in most of these cases, the beneficiaries were from the disadvantaged groups and were in genuine hardship. Hence, the SWD staff usually took a compassionate and sympathetic attitude towards them;

- nevertheless, it did not mean that there were absolutely no cases of fraud; and

- it was doubtful whether the number of successful cases of prosecution could reflect the actual situation of fraud.

7. In order to ascertain the gravity of the problem of fraud, the Committee further asked, apart from the figures quoted above, whether there was other information which could shed light on the problem. In reply, the **Director of Social Welfare** said that:

- there were a considerable number of suspected welfare fraud cases detected by the SWD's front-line officers and some of these cases had been handed over to the Police for investigation; and

- recently, the SWD had established a hotline service for members of the public to report suspected cases of abuse. For the first few months, thousands of calls had been received.

8. As to whether the telephone reports were substantiated, the **Assistant Director (Social Security)** said that a small percentage of the calls were malicious whereas a larger

percentage of the calls gave insufficient information for follow-up action or, when they were followed up, there was not enough substance. Currently, the SWD detected about 15 cases of suspected fraud each month which were regarded as worthy of consideration for prosecution.

9. The Committee were concerned about some fraudulent cases revealed by Audit. The Committee understood that one of the prerequisites for eligibility for assistance under the CSSA or SSA Schemes was that the beneficiary must not be held in legal custody or in a penal institution because their daily necessities had been taken care of. Referring to paragraph 3.2 of the Audit Report which mentioned that an able-bodied unemployed person aged between 15 and 59 years old and who was available for work was required to call at the SWD's field units once a month to declare his employment status, the Committee asked how some inmates of the Correctional Services Department (CSD) could circumvent the requirement and still be paid welfare allowances while serving their terms of imprisonment. In response, the **Director of Social Welfare** said that:

- according to paragraph 5.10 of the Audit Report, Audit found 60 cases involving persons who were serving sentences in the CSD's penal institutions and who might still be receiving assistance under the CSSA Scheme, and out of these 60 cases, 36 cases were unemployment cases;

- Audit also stated that out of these 36 cases, payments of assistance had been stopped in 30 cases because the SWD had already identified some of these beneficiaries due to their failure to show up monthly at the social security field units;

- in order to step up the prevention of abuse, starting from 1 June 1999, CSSA beneficiaries would be required to call at the field units every two weeks, rather than once a month, so that the SWD could have more updated information about their employment status; and

- if a beneficiary failed to show up at the field units, the SWD staff would track down his whereabouts. If it was discovered that he was in prison, his CSSA payment would be stopped.

10. The Committee noted from paragraph 5.8 of the Audit Report that there was a fraudulent case involving a CSSA beneficiary who was in prison and continued to receive CSSA allowances for one year. Overpayments of basic allowance, rent allowance and rent deposit amounted to some $40,000.

11. In response, the **Director of Social Welfare** informed the Committee that:

- this particular case involved an elderly person who was not required to report to the field unit monthly;

- due to manpower constraints, the SWD only paid home visits to elderly CSSA beneficiaries once every three years;

- the number of elderly beneficiaries in prison was not high; and

- as depicted in Table 7 of the Audit Report, among the 60 cases reviewed by Audit, there were only four cases in which the beneficiaries were elderly persons.

12. According to paragraphs 4.12 and 4.25 of the Audit Report, a single parent and her son had received grants for spectacles for eight times totaling some $5,000 during a two-year period. The family had also received grants amounting to $47,000 for numerous household items and electrical appliances since early 1995. The Committee asked whether there was any dereliction of duty involved in this case on the part of the SWD staff. In reply, the **Director of Social Welfare** stated that:

- this was an isolated case. It was not common that a beneficiary made so many claims for special grants;

- the single parent in this case was abused by her husband and had to move from one place to another several times;

- as the beneficiary suffered from a lot of emotional stress and family problems, she was receiving counselling and the SWD's social workers were following up the case closely;

- although the reasons were not known, the spectacles were indeed broken on several occasions; and

- in line with the recommendation of the recent CSSA review to tighten special grants and supplements payable to able-bodied beneficiaries, starting from 1 June 1999, able-bodied CSSA recipients could no longer enjoy special grants.

13. The Committee referred to paragraph 4.18 of the Audit Report which revealed that some beneficiaries were given grants for lost cash. The Committee asked whether there were any reasons for giving these extraordinary grants and whether such grants would encourage the beneficiaries to become irresponsible. The **Director of Social Welfare** replied that:

- there were different circumstances leading to the loss of cash, for instance, some elderly citizens might be robbed or might have lost their cash, and some cases involved drug addicts who had reported the loss to the Police;

- he agreed that the SWD should not connive at these cases, but if these people could not survive without the cash, the SWD should offer assistance to them;

- he agreed that the present mechanism for disbursing special grants should be improved; and

- in this regard, the SWD would issue clearer guidelines and provide more training for front-line officers so as to assist them in disbursing the grants.

14. Regarding Audit's recommendation that the SWD should consider expanding the scope of the data-matching arrangements, the **Director of Social Welfare** informed the Committee that since early 1990, there had been arrangements for data-matching between the SWD and the Immigration Department to detect the length of welfare beneficiaries' absence from Hong Kong and to identify deceased CSSA and SSA recipients. In view of the usefulness of data-matching, as shown by the experimental data-matching exercise conducted by Audit on the records of CSSA beneficiaries in the Social Security Payment System and the inmate data in the Penal Records Information System (PRIS) of the CSD, the SWD had approached the CSD for its agreement to implement data-matching with the PRIS.

15. The **Assistant Director (Social Security)** supplemented that the SWD was also discussing with the following government departments and organisations the possibility of conducting data-matching with the records held by them:

- the Treasury: by cross-checking with the records of the Government Payroll System, the SWD would be able to identify the cases of civil servants claiming welfare allowances;

- the Hospital Authority: data-matching would be conducted with a view to spotting those beneficiaries who had been hospitalised and the welfare allowances payable to them would be reduced;

- the Legal Aid Department: data-matching would help to identify those beneficiaries who were receiving other financial assistance, such as compensation for a traffic accident and alimony; and

- the Land Registry.

16. The Committee were concerned about the legality of data-matching and the rights of the beneficiaries in this regard. The Committee also noticed that in applying for CSSA and SSA, an applicant had to give an undertaking in the application form which stated that "I (the applicant) consent to any investigations into the circumstances relating to my receipt of Comprehensive Social Security Assistance (Social Security Allowance) being carried out by the Social Welfare Department, including but not limited to asking the Immigration Department/other government departments/other parties to match my personal data relating to my receipt of Comprehensive Social Security Assistance (Social Security Allowance) with my personal data held by such other department or such other parties (such as travel records held on the computer) and those of the other members of my household. I also consent to such government departments and parties providing the requested data and records to the Social Welfare Department." The Committee were concerned that the undertaking might give the SWD too much power in carrying out data-matching which was of no direct relevance to the CSSA/SSA application.

17. The Committee therefore inquired about the procedures which the SWD had to follow in conducting data-matching exercises. In reply, the **Director of Social Welfare** and the **Assistant Director (Social Security)** said that:

- data-matching procedures were governed by Part VI of the Personal Data (Privacy) Ordinance;

- in accordance with the Ordinance, the SWD had to obtain permission from the Privacy Commissioner for Personal Data for carrying out data-matching exercises;

- the Ordinance also stipulated that a data user must not take adverse action against an individual as a result of the data-matching unless the individual was served with a notice specifying the adverse action proposed to be taken and the reasons therefor, and stating that the individual could put up the reasons why that action should not be taken within seven days after the receipt of the notice; and

- the SWD had all along followed the above procedure in conducting the data-matching exercises with the Immigration Department.

18. Paragraph 3.9 of the Audit Report revealed that, from September 1996 to March 1998, the Special Investigation Team (SIT) had checked a total of 2,746 cases of Higher Old Age Allowance and Normal Disability Allowance. Out of these cases, there were 25 (constituting about 1% of the cases checked) which involved overpayments due to the absence of the beneficiaries from Hong Kong or the death of the beneficiaries. Despite the data-matching arrangements between the SWD and the Immigration Department, these cases had not been detected. The reasons were mostly unknown. The Committee were concerned that loopholes might exist in the data-matching system, thereby undermining its reliability. In response to the Committee's inquiry, the **Director of Social Welfare** said in his letter of 21 May 1999, in ***Appendix 28***, that:

- results of data-matching were susceptible to errors such as incorrect input of personal identity numbers;

- it appeared that the 25 cases identified by Audit were undetected due to clerical errors during the death record inputting process and the time gap between the dates of death and the forwarding of the records to the SWD. The latter situation occurred because a coroner might have to take some time to establish the cause of death before issuing a death certificate;

- the number of cases in which data-matching failed represented a very small proportion of matched cases; and

- nevertheless, in order to reduce such failures to the minimum, the SWD staff would conduct regular reviews of cases and random checks.

19. The Committee noted that in recent years, the SWD had increased its efforts to combat welfare fraud and abuse. In this regard, the **Director of Social Welfare** informed the Committee that:

- the SWD was not initiating reforms simply because fraud cases were prevalent;

- as the total payments under the CSSA and SSA Schemes amounted to some $17.8 billion, the Department had to strengthen control to safeguard public expenditure for social security payments against fraud and abuse. To achieve

this target, the SWD would continue to set up the SIT, increase home visits, step up publicity and expand data-matching arrangements;

- moreover, the strategic Internal Committee on Fraud Cases (ICFC) was established to examine suspected fraud cases and to decide whether they should be referred to the police for further investigation and for prosecution; and

- as there were over 860,000 beneficiaries under the CSSA and SSA Schemes, it was impossible for the SWD to follow up each and every case closely. Therefore, he would adopt the risk management model proposed by Audit in the prevention and detection of fraud and abuse. For instance, if the social security field units observed a sudden upsurge in a particular type of cases, they would report the situation to the ICFC and the ICFC would investigate whether fraud was involved.

20. With regard to the SWD's increased efforts to combat fraud and abuse, the Committee were concerned whether the benefits obtained would justify the costs incurred. The Committee noted from the first inset in paragraph 2.12 of the Audit Report that 171 extra staff had been provided in the 1999-2000 Estimates to the social security field units and the SIT. The Committee asked how the 171 staff would be deployed and the cost of detecting and investigating fraud cases. At the public hearing and in the letter of 21 May 1999, the **Director of Social Welfare** and the **Assistant Director (Social Security)** said that:

- the SWD's social security caseload had been rising by 20% per annum for more than five years and additional staff were required to deal with the backlog and to handle the increased caseload;

- some of the additional posts would be responsible for implementing the recommendations of the Support for Self-reliance Report and others would be required to strengthen fraud prevention and investigation work;

- out of the 171 posts, 16 would be deployed to the SIT;

- the total cost to be spent on the SIT in 1999-2000 was $11.17 million, including personal emoluments, departmental expenses and support cost; and

- based on the staff costs of the SIT and the total number of cases handled in 1998, the average cost of dealing with a case (including fraud and random checks) was $719.

21. Referring to the Secretary for the Treasury's comment in paragraph 2.12 of the Audit Report that incremental increases in staff might not be the most cost-effective way to prevent fraud, the Committee asked how she would ensure the cost-effectiveness of the extra posts provided to the SWD. In response, **Miss Denise YUE Chung-yee**, **Secretary for the Treasury**, said that:

- while vigorous verification and checking of an applicant's eligibility for CSSA was a very important control, it would be even more effective to make improvements to procedures;

- she welcomed the Director of Social Welfare's move to extend the scope of data-matching to other government departments and organisations;

- the Director of Social Welfare could consider setting performance indicators to help evaluate the cost-effectiveness of the additional posts; and

- when the Commissioner of Inland Revenue applied for the creation of an extra investigation team at a cost of $10 million, he undertook to detect cases of tax evasion amounting to $100 million, which would be a useful reference for measuring the cost-effectiveness of the team in future.

22. In his letter of 21 May 1999, in ***Appendix 28***, the **Director of Social Welfare** said that it was difficult to quantify the amount of overpayment expected to be detected by the additional SIT staff as it was impossible to predict the likely incidence of fraud. He considered that an important justification for the existence of the SIT was the deterrent effect, which was impossible to measure.

23. As to whether the SWD would review the necessity of the extra 171 posts, the **Assistant Director (Social Security)** said that some of the workers would be responsible for implementing the active employment assistance programme, which would come into effect on 1 June 1999. The SWD would carry out the first-stage evaluation on the effectiveness of the programme six months after its implementation. The full review would be conducted 12 months after implementation. Despite the difficulty in establishing measurable targets for fraud prevention and investigation work, the SWD would identify outcome indicators in implementing the risk management approach, and a possible indicator would probably be the incidence of overpayment.

The Administration of the Comprehensive Social Security Assistance and Social Security Allowance Schemes

24. **Conclusions and recommendations** The Committee:

- consider that the gravity of the problem of social security fraud should be put in proper perspective, having regard to the fact that out of more than 700,000 Comprehensive Social Security Assistance (CSSA) and Social Security Allowance (SSA) cases involving a total payment of $17.8 billion, there were only 120 identified fraud cases in 1998-99 involving overpayments of $3.11 million, constituting less than 1% of the total number of cases and the total amount of welfare payments;

- note that:

  (i) the Social Welfare Department (SWD) has adopted a more proactive approach in combating CSSA and SSA fraud and abuse, instead of relying on the honour system as in the past whereby beneficiaries are required to report, on their own initiative, changes in their circumstances to the SWD;

  (ii) the SWD has recently stepped up actions for prosecution against suspected welfare offenders and the number of fraudulent cases prosecuted has risen in the past few years; and

  (iii) the Internal Committee on Fraud Cases was formed in late 1996 to examine all suspected fraud cases and to decide whether they should be forwarded to the police for further investigation and for prosecution;

- consider that while the above moves are in the right direction, the benefit obtained must be weighed against the cost incurred;

- agree with the Secretary for the Treasury that, with reference to the Commissioner of Inland Revenue's undertaking to detect cases of tax evasion amounting to $100 million when seeking approval for the creation of an additional investigation team at a cost of $10 million, the SWD should set performance indicators for evaluating the effectiveness of its efforts in combating fraud and abuse;

- urge the Director of Social Welfare to conduct a review on the effectiveness of its increased efforts to combat welfare fraud after a reasonable period of time;

- express concern that:

(i) there has been inadequate control over the administration of special grants;

(ii) some field unit staff have exercised inappropriate discretion in the classification of the causes of overpayments; and

(iii) the senior management of the SWD have not properly monitored the situation of outstanding payments and their subsequent recoveries;

- urge the Director of Social Welfare to:

(i) develop and incorporate special functions into the new Computerised Social Security System to keep track of and to report unusual and frequent claims for special grants by individual beneficiaries;

(ii) direct the Special Investigation Teams to investigate beneficiaries who have unusual claim patterns;

(iii) define the scope of grants that are allowed as discretionary payments under the CSSA Scheme;

(iv) take action to improve the reliability and accuracy of overpayment statistics;

(v) take action to improve the management control of the outstanding overpayments and their subsequent recoveries; and

(vi) conduct as soon as possible an ageing analysis of the outstanding overpayments to ascertain the total outstanding amount of overpayments and for how long they have been outstanding;

- agree with Audit's view that data-matching is useful for preventing and detecting welfare fraud and abuse cases;

- note that the Director of Social Welfare will explore the possibility of extending data-matching with other organisations;

- urge the Director of Social Welfare to:

(i) exercise caution in extending the data-matching arrangement;

(ii) explain clearly to CSSA and SSA applicants the implications of their signing the application forms thereby giving the SWD consent to carry out data-matching with other government departments and other parties; and

(iii) explain clearly to the applicants their rights in this regard;

- urge the Director of Social Welfare to take prompt action to prevent the recurrence of incidents involving overpayments due to the absence of the beneficiaries from Hong Kong, and the death of the beneficiaries not being detected by data-matching between the SWD and the Immigration Department, so as to enhance the reliability of the data-matching procedure;

- note the Director of Social Welfare's undertaking to adopt risk management in fraud prevention and detection, as well as in the management of the CSSA and SSA Schemes; and

- wish to be kept informed of:

(i) the outcome of the Director of Social Welfare's investigation of the suspected fraudulent cases detected by Audit in the experimental data-matching exercises;

(ii) the progress of the Director of Social Welfare's action to expand the scope of the data-matching arrangements; and

(iii) the progress of the implementation of risk management in the SWD's business operations.

Chapter 7

The Government's monitoring of electricity supply companies

The Committee held public hearings on 4 May and 20 May 1999 to receive evidence on this subject from the Secretary for Economic Services, the Secretary for Financial Services, the Government Economist, the Managing Director of CLP Power Hong Kong Limited and the Managing Director of Hongkong Electric Company Limited. The Committee also received additional information from the witnesses after the public hearings.

2. The Committee will hold a third public hearing on 22 July 1999 to receive further evidence from the Secretary for Economic Services, the Government Economist and the Managing Director of CLP Power Hong Kong Limited on the effectiveness of the Government's monitoring role, particularly on CLP Power Hong Kong Limited's Black Point project. Under the circumstances, the Committee have decided to defer a full report on this subject.

Chapter 8

Construction of the Hei Ling Chau Typhoon Shelter

The Committee noted that in November 1995, the Civil Engineering Department (CED) awarded a contract (the Contract) for the construction of the Hei Ling Chau Typhoon Shelter (HLCTS). As Hei Ling Chau was a restricted area under the control of the Correctional Services Department (CSD), the CED had to consult the CSD about its security requirements. In April 1994, a month after the completion of site investigation, the CSD objected to the general layout plan of the HLCTS because it did not comply fully with the CSD's security requirement of providing a 100-metre buffer zone between the shoreline and the HLCTS anchorage area. In view of the CSD's objection, the CED had to revise the general layout of the HLCTS in June 1994.

2. The Committee further noted that the CED had not carried out an additional site investigation after the decision was made in June 1994 to significantly revise the general layout of the HLCTS. The contractor was required to carry out an additional confirmatory site investigation due to uncertainty about the seabed conditions of the revised layout area. The additional site investigation revealed that there would be a significant increase in the quantities of dredging and filling, leading to a substantial increase in the cost.

3. The Committee understood that Audit had conducted a review to ascertain why design changes were required after the award of the Contract and whether there were inadequacies in the identification of client requirements when planning for the Contract.

4. The Committee noted that the Director of Civil Engineering had accepted all the Audit recommendations, and the Secretary for Works had agreed to draw the attention of relevant works departments to the Audit recommendations.

5. The Committee did not hold any public hearing on this subject. Instead, the Committee asked for written response to their following enquiries:

- when the CSD's 100-metre buffer zone requirement was first made, whether it was a general requirement and the basis for requiring that the buffer zone must be 100 metres from the shoreline of Hei Ling Chau;

- whether it was a normal practice for the same contractor to undertake both site investigation and construction works, given that the contractor might be perceived as having a conflict of interest in undertaking the two jobs; and

- what actions had been taken to ensure the accuracy and reliability of the findings of the additional site investigation.

6. The Commissioner of Correctional Services, in his letter of 15 May 1999 in ***Appendix 29***, and the Director of Civil Engineering, in his letter of 12 May 1999 in ***Appendix 30***, have provided the Committee with their comments on the issues.

Chapter 9

Management of telecommunications services under the 1988 Technical Services Agreement

The Committee noted the Director of Audit's review on the management of electronics and telecommunications services by government departments and the cost-effectiveness of the Government's spending under the 1988 Technical Services Agreement (TSA). The TSA was signed in December 1987 and would expire on 30 September 2006. Under the agreement, Hong Kong Telecom International Limited provided electronics and telecommunications services to the Government at cost. The expenditure of the Civil Aviation Department (CAD) and Radio Television Hong Kong (RTHK) on these services accounted for 85% of the total government expenditure on the TSA services in 1997-98.

2. According to Audit, a review of the time records of the TSA team in the CAD revealed that:

- in 1997-98, while the old Kai Tak Airport was still in operation, 67,338 man-hours i.e. 66% of the available man-hours, including overtime work, had not been charged to jobs; and

- for the period 6 July to 31 October 1998 i.e. after the new Hong Kong International Airport at Chek Lap Kok started to operate, 21,316 man-hours i.e. 73% of the available man-hours, including overtime work, had not been charged to jobs.

3. The Committee were concerned about the large number of man-hours not charged to jobs carried out by the TSA staff in the CAD, and asked why proper time records were not kept and, in the absence of such records, whether the payments made had been reasonably accounted for. **Mr Albert LAM Kwong-yu**, **Director of Civil Aviation** and **Mr LEUNG Woon-yin**, **Assistant Director (Technical and Planning)**, informed the Committee that:

- in 1997-98, some of the work performed by the TSA staff was associated with the relocation of the airport to Chek Lap Kok. This was not the normal repair and maintenance work and hence there was difficulty in keeping time records of such work;

- for project or technical support work, it was neither possible nor cost-effective to define precisely the time for each job or task performed, especially during the relocation of the airport when a large number of machinery and complex systems was involved. So long as the project and technical support work was done during the staff's normal working hours, no additional payment on staff costs for such work would be made;

- there were over 100 TSA staff members in the CAD and it would be difficult to vet the accuracy of their time records even if they were required to do so; and

- during the new airport opening and for software testing under a specified time-frame, the CAD had made special requests for some of the project and technical support work and additional TSA personnel were engaged. It was not possible to pre-determine the number of man-hours required in such circumstances. What the CAD could do was to monitor the progress of the work and the money spent to ensure that the project concerned could be completed before the deadline and in a cost-effective manner.

4. On the same question, **Ms Maria KWAN Sik-ning**, **Acting Secretary for Economic Services**, said that:

- time records were kept for the maintenance work performed by the TSA staff. Owing to the special nature of the project and technical support work at the airport, it was difficult for the staff to record the time spent. However, the CAD monitored the progress of the work done to ensure that the projects would be completed within the specified time-frame; and

- some of the overtime work was attributable to the relocation of the airport and the fact that some of the work had to be performed outside normal working hours in order to minimise the disruption to air traffic control operations. The CAD had accepted the Audit recommendations regarding the need for better management of TSA staff resources and would take positive action to minimise the overtime work.

5. In response to the Committee's question on why 40,500 man-hours of the TSA team in RTHK during the period November 1997 to October 1998 had not been charged to jobs, **Mr CHU Pui-hing**, **Acting Director of Broadcasting**, said that:

- the 40,500 man-hours only represented 14% of the total man-hours available. While this was not totally satisfactory, there were practical difficulties in keeping time records for all TSA staff in RTHK;

- the man-hours not charged to jobs were attributed to the following:

  (i) the nature of the work performed, instead of the number of man-hours, was recorded. The time records were therefore incomplete; and

(ii) the actual working hours of some TSA staff were dependent on the time spent on the production of programmes which would fluctuate according to the performance of the other parties involved. If the production time of a certain programme was shorter than the scheduled time, then some of the scheduled man-hours might not be accounted for; and

- nevertheless, RTHK would review the existing time recording system with a view to improving the situation.

6. With reference to Figure 2 of the Audit Report, the Committee noted that payments for the overtime work of the TSA staff in all user departments for the four years from 1994-95 to 1997-98 were persistently high. The Committee also noted that on average, 91% of the 360 Bands 1 to 5 TSA staff at the CAD and RTHK received overtime or ex-gratia payments every month, but the overtime time records were not checked or maintained by the supervisory staff of these two departments, as was required by Civil Service Bureau Circular No. 10/98. In view of the substantial amount of overtime payments made and the apparent absence of control, the Committee asked whether the Administration should regard this as a matter of concern and whether there was an urgent need for the CAD and RTHK to consider ways of improving their management of overtime work. In response, **Miss Denise YUE Chung-yee**, **Secretary for the Treasury**, said that:

- as stated in paragraph 23 of the Audit Report, she considered that user departments should keep full records of the services provided, where it was practicable and not disproportionately costly to do so, since these records would help Controlling Officers control cost and expenditure and Heads of Department make management decisions;

- the Finance Bureau had started to review the present TSA in August 1998. She welcomed the Audit Report and would take into consideration the questions raised and recommendations made; and

- the Finance Bureau's review was divided into two phases. The first phase focused on improvements and cost containment. As a short-term measure, the Finance Bureau was considering the possibility of imposing a ceiling on expenditure incurred under the TSA. This would prompt Controlling Officers and Heads of Department to exercise vigilance and discipline in using public funds. The measure would be implemented as soon as its feasibility was ascertained. In the second phase, consideration would be given to exploring options for improving the existing arrangements for obtaining

telecommunications services. This was expected to be completed in a few months.

7. On the question of overtime work of the TSA team in RTHK, the **Acting Director of Broadcasting** said that:

- because of the work nature of RTHK, there was a genuine need for the TSA staff to work overtime;

- RTHK had to rely on experienced staff, instead of freelance or temporary staff, to conduct large-scale programmes and major events such as the Handover Ceremony and the Opening Ceremony of the New International Airport at Chek Lap Kok. In the past few years, the number of outside broadcast productions had increased. Experienced staff were therefore required to work overtime to assist in production;

- Hong Kong Telecom International Limited had been asked to provide more flexibility in scheduling the working hours of the TSA staff and to arrange rest days on weekdays. With the adoption of this new practice, the amount of overtime payments would be reduced;

- a computerised booking system was being developed to help staff scheduling. It would be launched in the latter half of 1999. He believed that with the implementation of this system, better co-ordination within RTHK would be achieved; and

- RTHK shared the view of Audit that overtime work should be stringently and vigorously monitored and had started to do so since April 1999 on a monthly basis.

8. Having regard to the fact that Hong Kong Telecom International Limited, as a service provider, had the responsibility for monitoring the time spent and the tasks performed by their staff under the TSA, the Committee asked whether the company had been requested to provide full work records of the TSA staff and supporting information to justify the charging basis. **Mr SHUM Man-to**, **Director of Accounting Services**, informed the Committee that the Treasury had examined the records in detail and was satisfied that Hong Kong Telecom International Limited had diligently performed its monitoring role. However, in the light of the Audit recommendation, the Treasury would ask the departments concerned to vet the records and ascertain the level of services provided by the company.

9. At the request of the Committee, **Mr Dominic CHAN Yin-tat**, **Director of Audit**, commented that the existing records only provided some general figures and they made no reference to the particular tasks or work performed. The **Director of Accounting Services** undertook to ask Hong Kong Telecom International Limited to provide more detailed work records of the TSA staff so that the departments concerned could ascertain the amount of overtime payments made.

10. In her letter of 24 May 1999 in ***Appendix 31***, the **Secretary for the Treasury** advised the Committee that:

- Hong Kong Telecom International Limited had provided the Treasury with information on the basis of computing the administration charge, including the detailed costs to be apportioned. Both the Treasury and the Finance Bureau were reviewing the justifications for each cost component and examining the reasonableness of the basis of their apportionment. Audit's observations and recommendations would be taken into account; and

- according to the latest information available, it was likely that there would be a reduction of the rate of the administration charge, though its magnitude had yet to be finalised and agreed between the Government and Hong Kong Telecom International Limited.

11. With reference to paragraph 66 of the Audit Report, the Committee noted that Hong Kong Commercial Broadcasting Company Limited (CRHK) and Metro Broadcast Corporation Limited (Metro) were allowed to use the transmission sites in 1989 and 1991 respectively, despite the fact that the formal licence agreement with these two companies had not been signed. The Committee also noted that the first licence agreement was not signed until August 1996 and that CRHK only paid $5.05 million to the RTHK in 1995 as provisional payment for the recurrent costs for maintaining and operating the sites while Metro did not make any payment. According to paragraphs 69 to 73 of the Audit Report, the two companies objected to the way the costs were calculated and complained about the insufficient records of work done by the TSA team. In spite of the subsequent agreement to calculate the charging of recurrent costs on an hourly basis and to reduce the manpower charge by 16%, there was no further progress on a settlement of the outstanding recurrent costs by these two companies. Against this background, the Committee asked:

- why it had taken seven years for the Government to finalise the first licence agreement with the two broadcasting companies;

- whether there was any justification in the broadcasting companies' complaint about the high costs for the maintenance work;

- whether the outstanding recurrent costs could be recovered, and whether the amount that could not be recovered would have to be borne by taxpayers; and

- whether the existing mechanism for recovering the recurrent costs could be improved.

12. **Mr LAI Kwok-ying**, **Government Property Administrator** pointed out that it had taken six years for the Government Property Agency, which was set up in 1990, to negotiate the first licence agreement. The delay was mainly caused by the disagreement over the calculation of recurrent costs and the apportionment of these costs among the users. He agreed that the delay had been unduly long. With hindsight, the matter could have been satisfactorily resolved if more vigorous action had been taken earlier. He assured the Committee that similar problems would not recur. At the same time, he would seriously consider incorporating an arbitration mechanism in future licence agreements to help resolve disputes expeditiously.

13. Upon the request of the Committee, the **Government Property Administrator** provided further information about the licence agreement in his letter of 7 June 1999 in ***Appendix 32***:

- the considerations at the time of drafting the relevant terms of the licence agreement were:

  (i) the need to give early effect to the policy to recover the costs incurred for the use, operation and maintenance of the transmission stations on a pro-rata basis of the area occupied by the users; and

  (ii) the need to have a specific, definable and workable agreement with the users on the calculation of these costs;

- unfortunately, complications in the negotiation process had resulted in a final agreement which only provided that the recurrent costs were to be shared

amongst the users, without arriving at a specific method on how the costs were to be calculated; and

- legal advice had been obtained from the then Registrar General, the then Attorney General's Chambers and the Legal Advisory Conveyancing Office of the Lands Department in finalising the agreement terms.

14. The **Acting Director of Broadcasting** told the Committee that:

- RTHK had made persistent attempts to recover the recurrent costs from the two broadcasting companies after the signing of the first licence agreement in 1996 and before the final agreement was reached in early 1999. During this period, there were disputes over the charging basis of the recurrent costs, which on average amounted to $100,000 a month for each company. The fact that these companies had been allowed to occupy the transmission sites had complicated the negotiation process;

- the argument over the level of maintenance costs for the transmission sites reflected that the root of the problem lay in the absence of a clearly defined and agreed charging basis in the licence agreements and that this might have been used as a pretext for refusing to settle the payments. This was illustrated by the maintenance of the Peng Chau transmission site. Though it had been claimed that the maintenance service could be provided at lower costs, the undertaking had never materialised. In the end, RTHK was required to continue providing the service; and

- in March 1999, agreement was reached with the two broadcasting companies that the outstanding recurrent costs would be paid in four instalments. The first payment was made in April 1999.

15. **Mr KWONG Ki-chi**, **Secretary for Information Technology and Broadcasting**, also said that:

- the two broadcasting companies had always shown sincerity in settling the payments, though it had taken a long time to reach a consensus on the charging basis. With hindsight, it could be said that a better result could have been achieved if consensus had been reached earlier;

- nevertheless, an agreement had now been achieved with regard to the settlement of the outstanding payments, and it would form a clear basis for future payments; and

- an average cost would be used for calculating the outstanding payments for the six quarters between October 1996 and March 1998. Future charges would be based on the man-hours spent on the job and the actual costs incurred. RTHK would be keeping detailed records of the TSA team's man-hours.

16. The **Acting Director of Broadcasting** supplemented in his letter of 20 May 1999 in ***Appendix 33*** that RTHK was negotiating with CRHK and Metro to explore the possibility of contracting out the maintenance of the common facilities at the hilltop sites. The contract would adopt a lump-sum payment method to minimise record-keeping and administrative work.

17. The Committee queried why CRHK and Metro were allowed to use the transmission sites before their agreement on the basis of costing and the staff cost to be incurred was obtained. The Committee asked whether this would amount to maladministration on the part of the government departments concerned. The **Acting Director of Broadcasting** told the Committee that he was not in the position to answer the question because RTHK was only a user of the transmission sites. Though RTHK was also charged with the responsibility for collecting the recurrent costs for maintaining the sites under the TSA, the authority to grant permission to use the transmission sites was not vested in RTHK. The **Secretary for Information Technology and Broadcasting** said that he could not comment on the matter because the Information Technology and Broadcasting Bureau had not yet been established at that time.

18. The **Government Property Administrator** said that as a general rule, the parties involved in a negotiation would not be allowed to use government facilities before agreement was reached. This was indeed a very unusual case. One possible explanation was that the facility involved was related to an important service to the community.

19. The **Secretary for the Treasury** also said that the negotiation for the first licence agreement had started in 1989 and the Government Property Agency was set up in 1990. According to paragraph 66 of the Audit Report, it was the Postmaster General who gave approval in 1989 and 1991 respectively for the two broadcasting companies to use the transmission sites under the Telecommunication Ordinance (Cap. 106).

20. At the request of the Committee, the Government Property Administrator undertook to conduct a search on the relevant records to find out the background and considerations for granting approval at the time. In his letter dated 7 June 1999 in ***Appendix 34***, the **Government Property Administrator** informed the Committee that:

- in 1985, the Postmaster General drew up a full VHF/FM transmission plan for Hong Kong to extend the coverage of signal transmission, improve radio sound quality and rationalise transmission frequency allocation. Seven hilltop sites were identified for building transmission stations to be used by RTHK, CRHK and future broadcasters. In 1987, the Administration decided that the Government should retain full ownership of these hilltop sites and transmission stations. Licences should be issued to CRHK and other users for the use of these facilities and other common equipment in return for an appropriate fee. Other costs incurred for the use, operation and maintenance of the transmission stations would have to be shared among Government, CRHK and other users on a pro-rata basis. The then Buildings and Lands Department began to work on the licence agreement in 1988;

- in August 1989, the then Governor-in-Council granted a broadcasting licence for CRHK taking into account the new VHF/FM transmission plan. RTHK and CRHK commenced broadcasting from the new sites in December 1989. However, the licence agreement for CRHK to use the transmission sites was not yet finalised;

- the Administration could not find any written records which might throw light on the justifications for allowing CRHK to use the transmission sites in December 1989 before a formal licence agreement was reached. However, the following considerations were apparently relevant at the time:

  (i) the policy intention was to implement the full VHF/FM transmission plan as soon as the transmission facilities were put in place;

  (ii) CRHK had all along been a specific party in the implementation of the new transmission plan; and

  (iii) once the new VHF/FM plan was activated, CRHK could not continue with its broadcasting through the old frequencies due to interference problems; and

- Metro was granted a broadcasting licence in April 1991 and commenced broadcasting using the transmission sites in July 1991. As in the case for CRHK, the Administration could not establish from the records the justifications for allowing Metro to use the transmission sites before it had reached a licence agreement with the Government. Apparently, there was a technical necessity to allow Metro to use the transmission sites in order to commence broadcasting.

21. The Committee noted the Audit's view in paragraph 104 of the Report that Hong Kong Telecom International Limited had become a monopoly in the field of telecommunications and aviation electronics maintenance. With the surrender of its exclusive telecommunications licence in February 1998, there was a need for the Government to prepare for the possibility that Hong Kong Telecom International Limited might not continue to provide telecommunications services to the Government at cost, and to critically examine the feasibility of using in-house or other services. The Committee asked whether the present arrangements under the TSA were contrary to the Government's policy objective of opening up the telecommunications market and whether the Administration had explored other options for obtaining telecommunications services.

22. The **Secretary for Information Technology and Broadcasting** said that he did not understand why Audit had linked the two issues together. The cash compensation of $6.7 billion was paid in exchange for an early surrender of the exclusive telecommunications licence by Hong Kong Telecom International Limited. According to his understanding, the TSA did not represent a monopoly. It was just an agreement concerning the provision of electronics and telecommunications services between the Government and Hong Kong Telecom International Limited. In his view, the TSA and the Government's telecommunications policy were totally unrelated.

23. The **Secretary for the Treasury** also considered that the TSA did not represent a monopoly or an exclusive licence. She also said that:

- according to the existing agreement, the Government was free to decide whether new services should be incorporated into the TSA and whether new services should be procured from other service providers;

- the Finance Bureau was conducting a comprehensive review on the present TSA which would expire on 30 September 2006. The review was expected to be completed at the end of 1999. If it was decided that major changes to the

TSA should be introduced or that the present TSA should not be renewed, the Government would need sufficient time to plan ahead and make preparations for the transfer of duties because highly technical work was involved. Moreover, it would not be easy to identify suitable service providers within a short time; and

- upon the completion of the review, a report on its results would be submitted to the Committee.

24. As regards the relevance of the surrender of the exclusive telecommunications licence to the TSA, the **Director of Audit** said that while the Secretary for Information Technology and Broadcasting was entitled to his views, he could not agree with him that the two issues were not related. Hong Kong Telecom International Limited had become a monopoly in the field of telecommunications and aviation electronics maintenance. In the light of recent developments, the feasibility of using in-house or other services should be given early consideration.

25. **Conclusions and recommendations** The Committee:

Monitoring of Technical Services Agreement (TSA) services

- express concern that:

  (i) the man-hours not charged to jobs for the TSA teams in the Civil Aviation Department (CAD) and Radio Television Hong Kong (RTHK) amounted to $21.8 million a year; and

  (ii) RTHK has employed TSA staff to perform non-telecommunications duties at higher staff cost;

- express dissatisfaction that subsequent to the completion of the consultancy review in 1991, no follow-up action had been taken to ascertain whether a reduction in the TSA staff establishment was achievable despite the fact that RTHK remained as a government department;

- express concern that the existing arrangement for the majority of the TSA staff to work during normal office hours does not match the actual demand for such services;

- recommend that the Director of Civil Aviation and the Director of Broadcasting should, in conjunction with the Secretary for the Treasury, critically reassess their TSA service requirements and closely monitor the deployment of their TSA staff. In particular, the Directors should:

  (i) maintain adequate time records on the utilisation of the TSA staff and ensure that all man-hours spent on jobs are fully accounted for;

  (ii) in consultation with the Director of Electrical and Mechanical Services, assess the manpower requirement for the preventive and corrective maintenance of the major air traffic control or broadcasting systems and equipment;

  (iii) in the light of the assessment results, take appropriate action to deal with the surplus TSA staff;

  (iv) revise the working hours of the TSA staff for carrying out the operation or maintenance work of air traffic control or broadcasting systems and equipment to ensure that they are gainfully employed throughout their scheduled working hours; and

  (v) consider introducing a budget time management system to better allocate, control and monitor the use of TSA staff resources;

- recommend that the Director of Broadcasting should:

  (i) review the cost-effectiveness of engaging the TSA staff to carry out the camera, audio and lighting operations; and

  (ii) take early action to replace the TSA staff by contract staff if it is more cost-effective to do so;

<u>Payment of overtime allowance</u>

- express grave concern that the CAD and RTHK have paid a significant amount of overtime allowance to the TSA staff but have not taken positive action to reduce the overtime payments during the past years;

- acknowledge that the Director of Civil Aviation and the Director of Broadcasting:

(i) have curtailed the practice of setting Sundays as compulsory rest days for the TSA staff; and

(ii) will re-schedule the working hours of the TSA staff to match the work requirement in order to reduce overtime work to the minimum;

Administration charge

- express reservations about the reasonableness of certain components of the administration charge because of the lack of supporting information or records;

- note that the basis of the Treasury's costing for computing the administration charge under the TSA for the years 1993 to 1997 was at variance with that of the previous costing for the years 1988 to 1992;

- express the view that there is a need for the Government to verify each cost component of the administration charge;

- recommend that the Secretary for the Treasury should, in consultation with the Director of Accounting Services, critically review the basis for determining the administration charge to ensure that the apportioned costs are fair and reasonable. In particular, the Secretary should:

  (i) review the information provided by Hong Kong Telecom International Limited on the basis for computing the administration charge, including the detailed costs to be apportioned and the reasonableness of the basis of apportionment; and

  (ii) ask the Heads of Department who use TSA services, in particular the Director of Civil Aviation and the Director of Broadcasting, to provide proper assessments of the level and quality of services provided by Hong Kong Telecom International Limited, having regard to the administration costs charged;

Recovery of licence fees for transmission sites

- express dismay that Hong Kong Commercial Broadcasting Company Limited (CRHK) and Metro Broadcast Corporation Limited (Metro) had been allowed to use the transmission sites since 1989 and 1991 respectively, despite the fact that the formal licence agreement was not signed until 1996;

- express dissatisfaction that the terms of consideration of the licence agreement were not clearly defined, which resulted in a delay of seven years in the recovery of recurrent costs from CRHK and Metro;

- express serious concern that the TSA team in RTHK had not maintained proper records to substantiate the charging of recurrent costs;

- recommend that the Director of Broadcasting should:

  (i) in the light of lessons learnt from this case, ensure that in similar cases in future, agreement with the parties concerned on the basis of costing is obtained before licences are issued;

  (ii) maintain proper records to support the demand notes issued to licensees; and

  (iii) in making agreements with outsiders involving the costing of a service, ensure that prior expert advice is obtained from the Department of Justice and the Treasury so that all matters are properly dealt with before the signing of an agreement;

- recommend that the Government Property Administrator should consider incorporating an arbitration mechanism in the licence agreement to resolve disputes arising from disagreement over its terms;

<u>Performance measurement of the 1988 TSA</u>

- note that the CAD maintained performance records only on the availability of equipment or systems maintained by the TSA team and RTHK did not have any performance indicators for measuring the performance of TSA services;

- recommend that Heads of Department who use the TSA services should take early action to define productivity and performance indicators for these services;

<u>Cost-effectiveness of the TSA</u>

- note that according to Audit's estimate, the cost of TSA services was about 6% lower than that of in-house services in 1997-98 and this is significantly different from the result of the Treasury's cost-comparison reported to the Finance Committee in June 1997;

- urge the Finance Bureau and the Treasury to re-examine the basis of costing to be used for comparing the cost of TSA services and that of in-house services;

- recommend that the Secretary for the Treasury should, in consultation with the Heads of Department using TSA services, critically explore the possibilities of negotiating a better deal with Hong Kong Telecom International Limited;

- acknowledge the statement made by the Secretary for the Treasury that consideration would be given to exploring options for improving the existing arrangements for obtaining telecommunications services, and consider that the Government should critically examine the viability of introducing greater competition in sourcing providers for electronics and telecommunications services; and

- wish to be kept informed of the results of:

  (i) the CAD's and RTHK's assessment of TSA service requirements;

  (ii) RTHK's review on the cost-effectiveness of engaging the TSA staff to carry out the camera, audio and lighting operations;

  (iii) re-scheduling the working hours of the TSA staff in the CAD and RTHK;

  (iv) the review of the administration charge under the TSA; and

  (v) the Finance Bureau's review on the TSA.

Chapter 10

Practical Schools and Skills Opportunity Schools

The Committee noted that the Director of Audit had conducted a review to examine the effectiveness of practical schools (PS) and skills opportunity schools (SOS). The key findings were:

- the enrolment rate of the Hong Kong Sea School, a PS, had been unsatisfactory in recent years;

- the enrolment in SOS had been low and the action taken by the Education Department (ED) to improve enrolment had had limited success;

- as a result of the ED's relaxation of the admission criteria for SOS to admit pupils with varied abilities, teachers faced greater teaching difficulties. Some pupils had been inappropriately placed;

- there were difficulties in the placement of PS and SOS pupils after Secondary 3; and

- there was insufficient training for teachers of PS and SOS.

2. The Committee noted that the Director of Education had accepted all the Audit recommendations and that she would do her best to implement them.

3. The Committee did not hold any public hearing on this subject. Instead, the Committee asked for written response to their enquiries about the unit costs of PS and SOS, as compared to the cost of ordinary secondary schools, as well as the progress of the ED in implementing the following Audit recommendations:

- referring pupils found unsuitable for SOS to other schools;

- integrating PS pupils into ordinary schools; and

- providing more training for teachers of PS and SOS.

4. The Director of Education has provided the Committee with her comments on the matter. Her letter of 19 May 1999 is in ***Appendix 35***.

Chapter 11

Services provided by the Social Welfare Department for offenders and children/juveniles in need of care or protection

The Corrections Section of the Social Welfare Department (SWD) provides community-based services and residential services for offenders. Community-based services include probation service, the Community Service Orders Scheme and the Community Support Service Scheme. Residential services include remand/place of refuge facilities and residential training. The SWD operates three types of residential training institutions, namely, probation homes, probation hostels and reformatory schools.

2. The Committee noted that the Director of Audit, in reviewing the services provided by the SWD for offenders and children/juveniles in need of care or protection, focused on the following areas:

- assessment of service effectiveness;
- management of residential homes; and
- reporting of the cost of the services.

Assessment of the effectiveness of the SWD's services for offenders

3. According to paragraph 9 of the Audit Report, the objective of the SWD's services for offenders is to provide treatment for offenders through a social work approach and to help them become law-abiding citizens. As such, the key indicator of the effectiveness of the SWD's services for offenders was the extent to which the offenders who had been under SWD care had become law-abiding citizens.

4. Audit revealed that one of the SWD's existing indicators was "success rate", which referred to the percentage of offenders who had completed the programmes of residential training, probation orders and community service orders. However, the re-conviction rate of offenders after the completion of the programmes was not taken into account. Under the circumstances, the Committee asked how the SWD assessed whether the offenders had become "law-abiding citizens". The Committee also enquired what the SWD's response was to the Audit's recommendation to adopt, as a key performance indicator, the percentage of persons with no re-conviction record within a specified period of time after completing the treatment programmes.

5. **Mr Andrew LEUNG Kin-pong**, **Director of Social Welfare**, and **Mr Carlos LEUNG Sze-hung**, **Assistant Director (Youth/Human Resource Management)**, replied that:

- the target clients of residential services and community-based services were different. Residential services were provided for offenders who had committed relatively serious crimes and were more prone to re-conviction. On the other hand, community-based services were meant for offenders in less serious crimes and their propensity for re-conviction might not be as strong as the former group. Therefore, it would not be appropriate to compare the effectiveness of the residential and community-based services solely on the basis of the re-conviction rate;

- at present, the SWD evaluated whether offenders had become law-abiding citizens according to whether they had completed the treatment programmes satisfactorily. While it was agreed that the re-conviction rate would be a useful indicator, other indicators were also relevant; and

- starting from July 1999, the SWD would adopt other indicators to assess its service effectiveness, including the number of offenders who had re-integrated into mainstream education, undergone vocational training or taken up employment after completing the SWD's programmes. The SWD would also take into account parents' comments on whether there were changes in the behaviour of the offenders upon completion of the programmes.

6. The Committee noted from paragraph 15 of the Audit Report that the Integrated Law and Order Statistical System (ILOSS) of the Security Bureau maintained statistics on the recidivism of the persons who had completed the SWD's programmes for offenders. However, the SWD had not regularly and systematically obtained such information in assessing its service effectiveness. Against this background, the Committee asked why the SWD had not made full use of the information from the ILOSS.

7. The **Director of Social Welfare** and the **Assistant Director (Youth/Human Resource Management)** said that:

- the SWD did try to make full use of the ILOSS. However, as the collection and verification of data took time, ILOSS data had the limitations of being provisional and incomplete. Moreover, as data were only produced one year

after the completion of the treatment programmes, they could not be used for timely assessment of the effectiveness of the programmes;

- as revealed in the Audit Report, 17% of the 1995 and 1996 data and 24% of the 1997 data in the ILOSS remained unprocessed in the transaction files pending verification and matching with other sub-systems; and

- hence, the ILOSS had to be improved before its data could be of greater use to the SWD.

8. The Committee enquired how and when the Administration would improve the ILOSS so as to overcome its limitations. **Mrs Regina IP LAU Suk-yee**, **Secretary for Security**, said that:

- the Security Bureau entirely agreed with the Director of Audit that the ILOSS should be made full use of and the SWD should consider using re-conviction rate as an indicator of service effectiveness;

- the problems with the ILOSS were technical in nature and could be solved once the departments had reached a consensus on the improvements that should be made;

- in order to improve the reliability of the ILOSS data, it had been agreed that the SWD would take up the responsibility for inputting data, previously undertaken by the Security Bureau. As the SWD knew better about the accuracy of the data, it could verify and input data at the same time; and

- the SWD and the Security Bureau had also agreed to enhance the linkage of the various sub-systems.

9. The Committee further asked whether the SWD, as a key user of the ILOSS, had requested the Security Bureau to improve the system. The **Director of Social Welfare**, in his letter of 19 May 1999 in ***Appendix 36***, said that the SWD had exchanged views with the Security Bureau on how to improve the ILOSS. A meeting had been held on 23 March 1999 to review the operation and future development of the ILOSS-SWD sub-system. The main points discussed were:

- improvement of the linkage of records and sharing of data among sub-systems;

- review of tabulation requirements and data items for the SWD sub-system;

- review of data input and amendment arrangements; and

- enhancements and future direction of the SWD sub-system.

Management of the SWD's residential homes

10. The Committee understood that the enrolment rate of the SWD's residential homes had been falling in recent years due to decline in demand. In 1998-99, the overall average enrolment rate of the residential services was only 48%, indicating that there was substantial under-utilisation. According to paragraph 44 of the Audit Report, the average enrolment rates of both Ma Tau Wei Girls' Home (MTWGH) and Pui Chi Boys' Home (PCBH) were below 50%. Audit suggested that the two homes should be merged. However, the Committee also noted that in spite of the rationalisation/reprovisioning exercise initiated by the SWD, the MTWGH and the PCBH would remain separate. Responding to the Committee's inquiry on the SWD's stance on the matter, the **Director of Social Welfare** and the **Assistant Director (Youth/Human Resource Management)** said that:

- the SWD had been monitoring the situation of under-utilisation closely. To tackle the problem, the SWD had examined the possibility of merging some of its residential homes and the plan was materialised in November 1998. For instance, Castle Peak Boys' Home (CPBH) had been merged with O Pui Shan Boys' Home (OPSBH) in November 1998. OPSBH became the SWD's only reformatory school and the site of CPBH had been returned to the Government Property Agency (GPA) in December 1998 for redevelopment;

- regarding Begonia Road Boys' Home (BRBH), its Boys' Probation Section would be transferred to Shatin Boys' Home on 1 February 1999. In July 1999, its girls' section would be merged with Pui Yin Juvenile Home (PYJH). BRBH would then become a remand home for both boys and girls. Meanwhile, the SWD was discussing with the GPA the future development of the BRBH site, whereas the PYJH site would be returned to the GPA for disposal;

- there was also a plan to redevelop Kwun Tong Hostel (KTH); and

- the merging of MTWGH and PCBH was feasible as they were both places of refuge. MTWGH had greater capacity and could accommodate all the existing residents of PCBH. If the two homes were merged, the PCBH site could be

returned to the GPA for alternative use. The SWD agreed that this would be a better use of resources.

11. On the same issue, **Mr LAI Kwok-ying**, **Government Property Administrator**, said that:

- the GPA was concerned about the utilisation of the sites currently occupied by the SWD's residential homes. In some cases, despite the merging of the homes, the sites were still not fully utilised. BRBH was such an example;

- the GPA supported Audit's recommendation that the SWD should consider relocating its facilities on urban sites, including BRBH, to less built-up areas; and

- the GPA was responsible for identifying under-utilised Government, Institution and Community (GIC) sites as replacement sites for the SWD's consideration.

12. The Committee understood from paragraph 47 of the Audit Report that the SWD had reservations about reprovisioning all the SWD's residential homes in the urban area to less built-up areas. The Committee asked about the rationale behind and whether the SWD had encountered any problems in securing sites for reprovisioning. The **Director of Social Welfare** and the **Assistant Director (Youth/Human Resource Management)** replied that:

- in principle, the SWD did not oppose the idea of relocating those residential homes occupying prime urban sites to less built-up areas, provided that there were suitable sites; and

- nevertheless, the SWD would not agree to relocating the homes to places which were so remote that parents would have difficulty visiting their children. It was not the SWD's intention to provide services to the offenders in a closed environment. Instead, the treatment programmes emphasised close communication between young offenders and their family. It was also necessary for the residents to undertake voluntary work or receive training in urban areas.

13. The Committee doubted whether there was any area in the territory which was practically inaccessible. The Committee then asked about the progress of identifying sites for reprovisioning of the residential homes, including BRBH. The **Assistant Director**

(Youth/Human Resource Management) said that ever since the Director of Audit put forward the proposal of relocating BRBH, the SWD had been discussing the matter with the GPA. Hitherto, the GPA had not proposed any sites for consideration by the SWD.

14. In his letter of 15 June 1999, in ***Appendix 37***, the **Government Property Administrator** informed the Committee that:

- the present facilities on the PYJH site would be accommodated in BRBH. The PYJH site would then be released for residential development;

- the GPA had proposed to relocate KTH to a nearby bus terminus site which would be redeveloped to make full use of the site potential. The SWD was agreeable to the proposal. Subject to the allocation of resources for the redevelopment proposal, the relocation would take place in five to seven years;

- the GPA had not proposed any sites to the SWD for the reprovisioning of PCBH because the SWD was still considering relocating PCBH to MTWGH as a short-term solution; and

- upon the SWD's agreement in May 1999 to relocate MTWGH and BRBH, the GPA had been consulting the SWD and the Planning Department on user requirements and possible replacement sites. The process was still on-going.

15. With reference to Table 1 of the Audit Report, the Committee noted that all the sites on which MTWGH, PCBH, PYJH, BRBH and KTH were located were substantially under-utilised. As the opportunity cost of using these sites for residential homes would rise when land value increased, the Committee asked about the opportunity cost of not disposing of these sites for residential purpose. The **Government Property Administrator** said that in considering the redevelopment potential of the sites, the GPA would take into account the availability of alternative sites for the existing user to carry on their activities, apart from current land utilisation and land value.

16. On the question of opportunity cost, the **Government Property Administrator** said in his letter of 15 June 1999 that:

- the PYJH site was rezoned for residential use on 4 September 1998 and scheduled to be released by the SWD in late July 1999. The site was included in the Government's land disposal programme for disposal after 1999-2000;

- the KTH site was included in a broader package of proposals which would involve the redevelopment of Government offices, a clinic and other community facilities in east Kwun Tong. The planning intention was to retain the site for GIC uses, which would be more in keeping with the surrounding GIC uses, both in terms of land use and development scale;

- the PCBH was a Grade III listed building according to the Antiquities and Monuments Office's grading of historical buildings. Owing to the secluded location of the site, the slope-side topography, the small size and the lack of vehicular access, it was considered unsuitable for residential redevelopment from the planning perspective;

- the long-term land use of the MTWGH site was being examined by the Planning Department and no decision had been reached yet. Hypothetically, if the site was rezoned for residential purpose, its current market value was $470 million; and

- the planning intention was to retain the BRBH site for educational or other GIC uses, which were considered more in keeping with the adjoining GIC uses in terms of land use and development scale. Developing the site into residential use would break the integrity of the wider GIC zone which was mainly for educational use.

17. The Committee noted that the staff-to-resident ratio of the SWD's residential homes had risen from 1:1.3 in 1994-95 to 1:0.9 in 1998-99 because the number of staff in the residential homes had not been reduced despite the decline in the demand for residential services. The Committee asked how the SWD would address the issue. The **Director of Social Welfare** replied that:

- he agreed that the demand for residential services had declined and the relatively high staff-to-resident ratio was attributable to the low enrolment rates of the residential homes. Even before the Audit review, the SWD had taken the initiative to invite the Management Services Agency (MSA) to review the management and operation of the residential homes; and

- the MSA review covered, inter alia, rationalisation of the staffing provision in residential homes.

18. The Committee enquired whether the decreased demand for residential services was due to declining juvenile crime rates and the availability of other correctional treatment programmes for offenders, such as the Community Service Orders Scheme (CSOS) and the Police Superintendent's Discretion Scheme (PSDS).

19. In his letter of 19 May 1999, in ***Appendix 36***, the **Director of Social Welfare** provided the statistics on juvenile arrests in the years 1989 to 1998 as follows:

	Juveniles arrested for crime	
Year	**(Aged 7 - 15)**	**(Aged 16 - 20)**
1989	7,437	8,283
1990	6,583	8,306
1991	7,044	8,165
1992	6,533	7,656
1993	6,644	8,733
1994	7,030	9,175
1995	6,723	8,961
1996	6,479	7,941
1997	5,964	6,855
1998	5,834	6,613

20. The **Director of Social Welfare** also gave an account of the factors causing the declining demand for residential services. He said that:

- the demand for services for young offenders was affected by the crime rate, the crime detection rate, the types and severity of crimes, the age of offenders, the sentencing pattern of the court, the strategy adopted in the treatment of different categories of offenders, and the public's concern about crimes;

- according to the Police's statistics, the juvenile crime rate was on a downward trend. Nevertheless, the actual number of juvenile delinquents might increase as the population of children and youth increased;

- the greater emphasis placed on community-based programmes for offenders had also affected the demand for residential services. For instance, the CSOS, an alternative sentencing option for young offenders aged 14 and above, had

been extended to all magistrate courts in 1992 and to the District Court, the Court of First Instance and the Court of Appeal in 1998. With the commencement of the PSDS in 1995, juvenile delinquents could be kept away from court proceedings; and

- notwithstanding the declining demand, the SWD's residential services were still needed for those who required residential programmes to assist them in turning over a new leaf. The SWD would keep the capacity and the utilisation of the residential services under review and make adjustments according to demonstrated needs.

21. As to the effectiveness of the CSOS and the PSDS, the **Director of Social Welfare** said that:

- the SWD had assessed the effectiveness of the CSOS by monitoring the percentage of satisfactory completion of the Community Service Orders (CSO). The figures for the past four financial years were:

Year	**Percentage**
1995-96	86%
1996-97	89%
1997-98	88%
1998-99	93%

- in assessing the CSOS, the SWD also made reference to the re-conviction rate of the offenders one year after completion of the orders. The figures for the past three years were:

Year	**Re-conviction rate**
1995	26%
1996	21%
1997	23%

- according to the research on the effectiveness of the rehabilitation programmes for young offenders commissioned by the Standing Committee on Young Offenders (SCOYO) of the Fight Crime Committee in August 1997, young

offenders on CSO had positive changes in family relationship, life aspirations, social skills and deviant tendency;

- to follow up the SCOYO research, the SWD had invited the City University to conduct a study on the operation of CSOS, with a view to enhancing its existing mode of operation. The findings of the study would be available in mid-2000; and

- the target group of the PSDS was fundamentally different from that of the CSOS. The CSOS was meant for young or adult offenders with offences punishable by imprisonment, whereas the PSDS was aimed at helping mainly those juveniles who had never offended before to stay away from the courts.

Reporting of the cost of services for offenders

22. With reference to paragraph 54 of the Audit Report, the Committee noted that the unit cost indicators in the Controlling Officer's Report of the SWD had not reflected the full cost of the services as staff on-costs and accommodation costs had not been included. The Committee asked whether these two cost components should have been included according to the Finance Bureau's guidelines on the preparation of Controlling Officer's Reports. **Miss Denise YUE Chung-yee**, **Secretary for the Treasury**, replied that:

- as set out in paragraph 55 of the Audit Report, the Finance Bureau's guidelines in this respect were that controlling officers should focus on those performance indicators which best indicated the quality, economy, efficiency and effectiveness of their programmes and on relevant information, rather than on information for its own sake. Unit cost or productivity indicators should be provided;

- there was no specific requirement for controlling officers to include staff on-costs or accommodation costs in the unit cost indicators. Controlling officers were given the authority and flexibility to decide which components should be included in calculating the effectiveness of their services; and

- if staff on-costs were included in the indicators, the cost-effectiveness of the services concerned could be reflected more accurately than when only the cash expenditure of that particular department was included. Nevertheless, it was up to the controlling officers to consider whether it was worthwhile doing so. As the expenditure on fringe benefits had been included under other heads, it

would take much time and effort to calculate the staff on-costs for a particular department.

23. **Conclusions and recommendations** The Committee:

- express dissatisfaction that:

  (i) the Social Welfare Department (SWD), in measuring the effectiveness of its services for offenders, has neglected the primary objective of helping offenders become law-abiding citizens. This is evidenced by the fact that the SWD does not use the percentage of offenders who have become law-abiding citizens after completing the programmes as its key performance indicator; and

  (ii) as a main user of the Integrated Law and Order Statistical System (ILOSS), the SWD has not actively sought improvements to the system;

- note that the Director of Social Welfare has agreed that the re-conviction rate of offenders is one of the useful performance indicators for the SWD's services for offenders and the SWD is currently making reference to such information;

- recommend that the percentage of offenders with no re-conviction record within a specified period of time after completion of the SWD programmes should be adopted by the SWD as a key performance indicator for inclusion in the Controlling Officer's Report;

- acknowledge that, according to the Director of Social Welfare, residential services are provided for offenders who have committed relatively serious crimes and are more prone to re-conviction, whereas community-based services cater for offenders who have committed less serious crimes;

- recommend that the SWD should establish separate performance targets/indicators for monitoring the effectiveness of residential services and community-based services, having regard to their different target clients;

- express concern that:

  (i) there has been substantial under-utilisation of the residential facilities, resulting in a high unit cost of the services;

(ii) as greater emphasis has been placed on community-based services, the decline in demand for residential services is likely to continue; and

(iii) there is substantial under-utilisation of sites occupied by some of the SWD's residential homes, especially those located in prime urban areas;

- note that the problem of under-utilisation of residential services is currently being dealt with in the context of the Management Services Agency (MSA) review, and the Director of Social Welfare will consider measures to enhance the residential services in implementing the MSA's recommendations;

- expect the Government Property Agency (GPA) to:

  (i) adopt a proactive approach for keeping track of urbanisation and keep under constant review the opportunity cost of utilising Government, Institution and Community sites, so as to achieve the objective of optimising the use of such sites; and

  (ii) expeditiously identify suitable sites for relocating the SWD's residential homes which are currently located in the urban area;

- note that the SWD will keep under review the capacity and utilisation of the residential services and make adjustments according to demonstrated needs;

- urge that the GPA should continue to identify, in the light of the SWD's review results, opportunities for redeveloping or releasing under-utilised sites for alternative purposes;

- urge the Property Strategy Group chaired by the Secretary for the Treasury to keep the problem of under-utilisation of the prime sites occupied by the SWD's facilities under review;

- acknowledge the Director of Social Welfare's admission that the unit cost indicator for residential training, as disclosed in the Controlling Officer's Report, has been substantially understated as a result of the use of an incorrect formula for calculating the unit cost;

- note that the SWD will revise the unit cost information in future Controlling Officer's Reports and produce unit costs in respect of different types of residential training services;

- agree with the Secretary for the Treasury that the cost-effectiveness of services provided by Government departments will be reflected more accurately if staff on-costs are included in the unit cost indicators;

- expect the Director of Social Welfare to include the staff on-costs of its services in the Controlling Officer's Report in future; and

- wish to be kept informed of :

  (i) the action taken by the SWD, in collaboration with the Security Bureau, to improve the operation and usefulness of the ILOSS;

  (ii) the progress of making more use of the ILOSS data and the re-conviction rate of offenders for the assessment of the effectiveness of the SWD's services for offenders;

  (iii) the progress made in comparing the success rates of various services for offenders, taking into account the differences in the client groups, the emphasis and the objectives of the services;

  (iv) the results of the MSA review on the management of residential homes;

  (v) the results of the GPA review to explore the redevelopment opportunities of sites occupied by the SWD's residential homes; and

  (vi) the progress of implementing the measures proposed in the MSA and GPA reviews.

Chapter 12

Use of information technology in schools

The Committee noted that it was the Government's vision to harness the power of information technology (IT) to help students obtain the most out of school education, and that IT was being used in schools in two areas, namely the administration of schools through the implementation of the School Administration and Management System (SAMS) and the use of IT for learning and teaching.

2. The Committee understood that the Director of Audit had reviewed the SAMS and the use of IT in education with a view to ascertaining whether:

- the objectives of the SAMS were being achieved; and

- the Government was promoting the use of IT in education effectively in a co-ordinated and timely manner.

The implementation and use of the SAMS

3. According to paragraph 2.3 of the Audit Report, in September 1993 the Finance Committee of the Legislative Council approved the implementation of the SAMS at recurrent and non-recurrent costs of $224 million over a five-year period. The costs were revised to $298 million in December 1995. In the Finance Committee paper submitted in September 1993, the benefits of the SAMS were estimated to be $222 million a year upon full implementation. However, as it turned out, only 50% of the expected benefits had been achieved due to low benefits of the SAMS which, according to the school survey conducted by Audit, was only 52%. The usage rates of the functional applications "Programme Schedule" and "Financial Monitoring and Planning" were as low as 15% and 16% respectively. In the light of this information, the Committee asked why the utilisation rate of the SAMS was so low that the planned benefits could not be achieved. In reply, **Mrs Fanny LAW**, **Director of Education**, said that:

- given the varying needs of different schools, it was impossible for the SAMS to fully meet the needs of individual schools;

- the planned benefits set out in the 1993 Finance Committee paper had been over-estimated as they were based on the assumption that all schools would use 100% of all the SAMS applications. With hindsight, the 100% usage rate was too ambitious;

- however, in assessing the overall benefits of the SAMS, Audit had not taken into account the benefit obtained from end-user computing, which referred to the fact that schools had made use of the information in the SAMS and developed their own computer applications to satisfy their specific needs; and

- end-user computing had actually helped to reduce the demand for additional manpower in individual schools.

4. In response to the Committee's inquiry on the measures being put in place to increase the utilisation of the SAMS, the **Director of Education** stated that:

- since the commissioning of the SAMS, the Education Department (ED) had organised a number of briefing sessions, experience sharing sessions, training classes and refresher training courses on the SAMS. These classes had been attended by more than 5,000 teachers. The ED had also organised workshops and issued guidelines for staff at different levels with a view to assisting schools in solving the operational problems encountered;

- at the same time, a series of measures were being implemented to improve the SAMS. For instance, as the system was first installed in 1994, some of the hardware had become outdated and their performance was not satisfactory. Actions were being taken to upgrade the servers and workstations;

- a consultant had been commissioned in November 1998 to identify improvement options for the SAMS; and

- with these efforts, it was expected that the overall utilisation of the system would improve.

5. The Committee observed that, apart from training and improved hardware, many schools were also in need of more clerical officers for inputting data into the system. The Committee therefore asked whether the Education Department had adopted any measures in this regard. **Mr NG Kwok-chuen**, **Assistant Director of Education**, said that in their recruitment exercise for clerical staff, schools would usually select the candidates who had computer knowledge. As the use of IT was quite common nowadays, many schools had had their data entered by clerical staff.

6. The Committee noted from paragraph 2.27 of the Audit Report that special schools were very dissatisfied with the SAMS. Notwithstanding that the ED had developed a "Special Education" application specially for these schools, many of their requirements were not satisfied. Paragraph 2.41(b) of the Audit Report revealed that the ED had planned to communicate with the special schools to clearly identify their needs. In this regard, the Committee inquired about the progress of the communication.

7. The **Assistant Director of Education** informed the Committee that after communicating with the special schools, it was found out that:

- the class promotion system of special schools was different from that of ordinary schools. Unlike ordinary schools, it was possible for special school students to skip several grades in a semester. Hence, an additional programme would be required to handle such information; and

- due to the special needs of their students, the class composition in special schools could vary. Assistance was being provided to them to compile a programme which would meet their requirements.

The **Assistant Director of Education** further said that the ED had also taken the opportunity to explain to eight special schools, which did not use the SAMS, that the system would have to be improved before it could fully meet their requirements.

8. The Committee noted that the Information Technology Services Department (ITSD) had adopted an in-house approach to develop the SAMS. System design was started in February 1994 and installation at schools was not completed until March 1998. Given the rapid pace of technology advancement, the Committee considered that the four-year development period was apparently too long. By the time the SAMS had been completed, the system might have become obsolete and its technical infrastructure fallen far behind the latest technology. Against this background, the Committee questioned whether the SAMS project could be regarded as successful and whether it was justifiable for the ITSD to claim in May 1998 that all the objectives of the SAMS project had been achieved, as reported in paragraph 2.11 of the Audit Report.

9. In response to the Committee's questions, **Mr LAU Kam-hung**, **Director of Information Technology Services**, stated that:

- taking into account the rapid pace of IT advancement, four years were indeed a relatively long period of time;

- nevertheless, as the schools had not used such a system before, the SAMS project had to be implemented in phases, and some trial points were selected for trying out the system;

- another characteristic of the SAMS was that it had more than 1,000 end users. Hence, a different approach was adopted in the user requirement analysis. Seminars and workshops had been held to help define user requirements, which had taken up some time; and

- moreover, the ED had a five-year plan for implementing the SAMS and the ITSD had to tie in with the ED's timeframe.

10. The Committee were also concerned about the flexibility built into the system. In view of the fact that there was a five-year plan for implementing the SAMS and there were more than 1,000 end users, the Committee asked whether the ITSD had included adequate flexibility in the original design to cope with an increase in demand on performance and changing user requirements, and to ensure that emerging technology could continue to be applied throughout the development period. The Committee further asked whether the ITSD had designed the SAMS in such a way that the capacity of the system could be upgraded to accommodate the memory requirement of new software. The Committee considered that, without such flexibility, the SAMS would become a white elephant.

11. In response, the **Director of Information Technology Services** said that:

- some degree of flexibility and expansion capacity had been allowed for in the original design of the SAMS. The fact that end user computing was allowed could be attributed to the inclusion of such interface in the design. Moreover, there was also some flexibility in the functional applications. For instance, there were more than 40 formats for report cards;

- during implementation, the feedback and suggestions from schools were taken into account in the later versions of the system;

- with regard to memory capacity, it was designed according to the hardware and software available at the time of system design. Although room for future

expansion had been allowed for, the total capacity expandable was not comparable to current standard;

- the ITSD had always designed IT systems according to the requirements of user departments. In most circumstances, the users' needs could be satisfied; and

- he did not agree that the SAMS was a white elephant as it had assisted many schools in their administration.

12. According to paragraphs 2.33 and 2.34 of the Audit Report, some secondary schools had complained about the poor hardware performance of the SAMS. For example, they were dissatisfied with the slow speed of the 486 central processing units and the lack of system memory capacity. The Committee asked how the ITSD would address these concerns.

13. The **Director of Information Technology Services** explained that the problems encountered by the secondary schools were common to all IT systems. Despite the use of the latest technology available at the time when a system was designed, and the inclusion of future expansion capability with a view to prolonging a system's lifespan, the hardware would become outmoded very quickly due to the rapid advancement in computer technology and rising user expectations. To resolve the problem, the hardware, including the servers, would have to be upgraded. This was one of the options being considered for enhancing the SAMS.

14. Referring to paragraphs 2.41(g) and (h) of the Audit Report which stated that the ED had commissioned a consultant to conduct a feasibility study for enhancing the SAMS and integrating its hardware with the IT facilities for education, the Committee asked about the background of the consultant and the progress of the study. The **Director of Education** and the **Director of Information Technology Services** replied that:

- the consultant was a communications and IT company commissioned at a cost of $500,000 to conduct the study; and

- the ED had just received the consultancy report and was studying its findings. In summary, the consultant concluded that it was technically feasible to integrate the SAMS hardware with the IT facilities distributed to schools for promoting IT in education.

15. Upon request, the Director of Information Technology Services provided a summary of the consultancy report entitled "Feasibility Study Report of the Infrastructure Enhancement Project for Schools" for the Committee's reference after the public hearing. In short, the consultant recommended that:

- approval be given to implement the proposed technical infrastructure enhancement for schools;

- before submitting the funding application, the ED should consult the Electrical and Mechanical Services Department and the Architectural Services Department on site preparation arrangements and resource implications. It should also conduct sufficient school consultation on the proposal and address the expectations of the schools;

- if it was necessary to allow some degree of flexibility for schools to meet their individual needs in the implementation, the school-based procurement should be considered. Under such an approach, the level of support to be provided to schools and the implementation schedule should be reviewed. Implementation guidelines should also be issued for schools to follow; and

- in view of the rapid pace of technology advancement, another study should be conducted to review the technical infrastructure after three years from the start of implementation.

The implementation of IT in education

16. On the issue of the implementation of IT in education, the Director of Education tabled a paper, in ***Appendix 38***, at the public hearing setting out the progress in this regard since December 1998. The paper stated that the Director of Audit's school survey was conducted in December 1998, only one month after the issue of the policy paper entitled "Information Technology for Learning in a New Era Five-year Strategy 1998-99 to 2002-03" (IT Strategy). At the time, most of the initiatives in enhancing IT in education had yet to be implemented, or had just been rolled out. Since then, progress had been made, including:

- guidelines on preparation of IT plans were issued to schools in March 1999. As at the end of March, about 32 % of all primary schools, 75% of all secondary schools and 50% of all special schools had submitted IT plans to the ED. The Information Technology Education Resource Centre (ITERC) of the ED would continue to offer advice to schools on how to formulate their IT plans;

- 622 school visits were arranged by the ITERC to offer on-site help and advice on issues related to the implementation of the IT initiatives;

- circulars were issued to schools to keep them up-to-date on the progress of implementing the various initiatives;

- seminars, experience sharing sessions and school-based training sessions were organised for schools;

- guidance and resource packages were provided to schools to demonstrate the usage of IT in teaching and learning; and

- computer-assisted learning software on various subjects was distributed to schools.

Other measures to be launched in the near future included the provision of IT co-ordinators to schools and the allocation of cash grant for schools to procure computers and acquire training for their teachers.

17. The Committee noted from paragraph 3.11 of the Audit Report that as at January 1999, the Government's financial commitments in promoting the use of IT in education amounted to $3.2 billion in capital costs and $261 million in recurrent costs a year. The $3.2 billion included $253 million approved for the provision of 15 multi-media computers to each primary school from 1997-98 to 1998-99. However, paragraph 3.21 of the Audit Report revealed that out of the 415 primary schools that had received the 15 computers in 1998, many were not offering any educational programme involving IT. In the light of this information, the Committee questioned whether the schools' poor response was attributable to the Audit's observation that the schools were not clear about the Government's IT policy in education.

18. In reply, the **Director of Education** said that:

- the installation of 15 computers in each primary school was only completed in early 1999;

- in March 1999, the ED issued a circular to schools requesting them to submit IT plans. There would also be IT co-ordinators to assist schools in promoting IT in education;

- the IT Pilot Scheme had been introduced in 1998-99. Ten primary and ten secondary schools, which were more advanced in the use of IT, had been selected under the scheme and arrangements had been made for school principals and teachers to visit these schools and share their experience in using IT; and

- these measures should help improve the IT readiness of schools.

19. As to whether public funds would be wasted as some schools had yet no plan to offer educational programme involving IT, the **Director of Education** said that it was the Government's initiative to provide, on average, 40 and 82 computers for each primary and secondary school respectively. It was not necessary for schools to hasten to procure the computers as the funds earmarked for this purpose could be kept for five years. Schools could procure the computers at their own pace having regard to their stages of development and readiness. For example, some schools might want to wait until after they had arranged for the necessary space for accommodating the computers or after their teachers had received IT training.

20. **Mr Joseph WONG Wing-ping**, **Secretary for Education and Manpower**, added that the Administration had indeed committed huge resources to the IT Strategy. As reported in the paper tabled at the hearing, much progress in implementing IT in education had been achieved after Audit's school survey. He considered that the use of IT in schools entailed a culture change which required the support of all stakeholders, including teachers and schools. With regard to monitoring, the following mechanisms had been set up:

- a users' group under the ED to liaise with schools and identify problems encountered by schools;

- an inter-departmental working group under the Education and Manpower Bureau (EMB) to co-ordinate issues that involved different departments. For example, the installation of computers would require the collaboration of the ED, the Government Supplies Department and the Architectural Services Department; and

- a sub-committee under the Education Commission to fine-tune the IT Strategy in the light of implementation experience, advance in technology and other new developments.

21. The Committee noted that in the 1998 Policy Address, it was stated that one of the policy objectives of the Information Technology and Broadcasting Bureau (ITBB) was to assist the EMB in its work on IT in education. However, it appeared that the ITBB had no role to play in the above mechanisms. The Committee therefore invited the Secretary for Information Technology and Broadcasting to clarify his role in this aspect. **Mr KWONG Ki-chi**, **Secretary for Information Technology and Broadcasting**, said that a Deputy Secretary from the ITBB was on the inter-departmental working group formed under the EMB to advise on IT development. The ITBB's aim was to ensure that the policy on IT in education was in line with the overall IT policy of the Government. As to implementation, it was the responsibility of the ED and ITSD.

22. The Committee understood that according to the IT Strategy, the Government aimed to have 25% of the school curriculum taught with the support of IT in five years' time. However, referring to paragraph 3.24 of the Audit Report, the Committee noted that a considerable number of schools did not understand how this target was to be measured. The Committee asked how the ED would improve the situation. The **Director of Education** informed the Committee that:

- as the Audit's school survey was conducted only one month after the issue of the IT Strategy, it was understandable that at that time some schools were not clear about the 25% target;

- since then, a lot of measures had been adopted to enhance teachers' understanding of the target, including the issue of circulars and the organization of briefing sessions and school visits. There was also the ITERC to offer advice and technical support to schools and teachers;

- to ensure that schools could apply IT in education meaningfully so that the 25% target could be achieved, the Curriculum Development Council was conducting a comprehensive review of the school curriculum. Moreover, seminars were being held to collect teachers' views on how IT could be applied in the teaching of individual subjects; and

- the Quality Education Fund had allocated funds to encourage teachers to share their experience in the use of IT in teaching on the internet.

23. The **Secretary for Education and Manpower** supplemented that:

- there had been divergent views as to whether a target should be set for the application of IT in teaching and learning. Some people preferred not to have a rigid target whilst others considered that, in the absence of a specific target, schools would not have a common goal;

- to ensure that schools could work towards a common goal, the 25% target was eventually set having regard to the experience of overseas countries; and

- as stated in the IT Strategy, schools would be given flexibility in deciding how to achieve the target. The IT Strategy also gave examples of activities that could be included in achieving the target, such as using IT in teaching for two lessons, using e-mail communications, designing web sites and using IT to do and mark assignments.

24. The Committee noted from the Audit Report that some schools which were more advanced in the use of IT had already achieved the 25% target. As such, the Committee asked whether the Administration would consider setting higher targets for the more advanced schools and allocating more resources to them according to their pace of development in IT. In reply, the **Secretary for Education and Manpower** said that although it was impossible to provide as much resource as required by the schools, the policy was flexible. Schools which were more advanced in IT could apply for funds from the Quality Education Fund for procuring more computer facilities so that they could develop at a faster pace. Moreover, IT co-ordinators would be provided to assist these schools in further developing the use of IT.

25. The Committee were also concerned that there had been reports that in some schools, computers were left unused and stored in washrooms. The Committee asked whether there was adequate space in schools to accommodate the computers that were made available to them. In reply, the **Director of Education** said that:

- the report that computers were being placed in washrooms was not true. As schools could procure the additional computers after site preparation works had been completed, there was no question of computers lying idle due to the lack of storage space;

- so far, site preparation works had been completed in about 90 schools to prepare for the installation of 40 and 82 computers for each primary and secondary school, and the schedule was to complete all the site preparation works by August 2000; and

- to accommodate the computers, some schools would have to give up some facilities with low usage and turn them into computer rooms. For some schools, computer rooms would be provided under the School Improvement Programme.

26. The Committee further asked whether the Administration would consider providing subsidy, such as interest-free loans, to students for procuring computers so that there was no need for them to fight for the use of computers in schools. In reply, the **Secretary for Education and Manpower** said that the idea had been considered when the IT Strategy was drawn up, but was given up due to the substantial financial implications. To enable needy students to have access to computers outside schools, the following two proposals had been put forth and approved by the Finance Committee:

- the provision of grants to schools to make their computer facilities available to students after school hours; and

- the provision of 1,000 computers in community and youth centres.

27. **Conclusions and recommendations** The Committee:

The School Administration and Management System (SAMS)

- express serious concern that:

  (i) the SAMS has only an overall usage of 52% and that a significant proportion of the schools are not satisfied with the SAMS;

  (ii) the SAMS has fallen short of its objectives of effectively supporting schools in management and financial planning, and of improving information transmission between schools and the Education Department; and

  (iii) while the total cost of the SAMS amounted to $298 million, the savings achieved were only $112 million a year, which is about 50% of the expected dollar savings;

- consider that, given the substantial potential benefits yet to be achieved, greater efforts are necessary to increase the usage of the SAMS, including developing more avenues to enable schools to increase the use of the SAMS for electronic

data transmission with the Education Department, developing support groups to assist primary schools in understanding and using the SAMS, and taking positive actions to improve the usage of those SAMS applications that provide schools with the greatest benefits;

- acknowledge that the Education Department is taking various measures to improve the usage of the SAMS, including:

  (i) developing self-help groups;

  (ii) strengthening training and support;

  (iii) identifying users' needs for special schools;

  (iv) encouraging schools to forward returns electronically to the Education Department through the SAMS; and

  (v) upgrading the SAMS;

- note that the Education Department has commissioned a consultant to identify hardware improvement options, and to examine the technical feasibility of integrating the SAMS hardware with the information technology (IT) facilities for supporting IT in education;

- urge that:

  (i) the Education Department and the Information Technology Services Department should take into account the problems encountered by schools when enhancing the SAMS; and

  (ii) the Education Department should co-ordinate with the schools with a view to drawing up a comprehensive plan to improve the overall usage of the SAMS;

- acknowledge the Director of Information Technology Services' admission that, given the rapid pace of IT advancement, the four-year development period of the SAMS had been too long;

- urge that the Director of Information Technology Services, in developing large-scale IT systems, should take into account the importance of timing and

include adequate flexibility and expansion capability in the design so that the systems can keep pace with the advancement of technology;

- recommend that the Director of Education should:

  (i) establish a measurable and realistic target of the SAMS usage and use it for monitoring the actual usage;

  (ii) set up a mechanism to monitor the results of future enhancements to the SAMS and to assess whether the expected benefits are achieved;

  (iii) continue to take action to promote the use of the SAMS, particularly in those areas that will bring the greatest benefits to schools;

  (iv) ensure that schools are given adequate flexibility so that they can benefit from the latest development in technology; and

  (v) keep the Committee informed of the outcome of the ED's various actions to improve the usage of the SAMS;

<u>The use of IT in education</u>

- strongly recommend that, in view of the unsatisfactory track record of the SAMS, and having regard to the fact that, as at January 1999, the financial commitments to promoting the use of IT in education amounted to $3.2 billion in capital costs and $261 million in recurrent costs a year, the Education Department should make every endeavour to ensure that the expenditures in this respect will achieve the policy objectives;

- note the progress of the various initiatives in enhancing IT in education since December 1998, including:

  (i) the issue of guidelines on the preparation of IT plans to schools;

  (ii) the organisation of school visits by the Information Technology Education Resource Centre to offer on-site advice;

  (iii) the issue of circulars to schools on the progress of the implementation of the various initiatives;

  (iv) the organisation of seminars and training sessions for schools;

(v) the provision of guidance and resource packages on IT to schools; and

(vi) the distribution of computer-assisted learning software on various subjects to schools;

- urge that:

(i) while schools should be encouraged to achieve the target of applying IT in teaching without delay, the Education Department should also give schools the flexibility to determine the pace and timing for receiving additional computers, having regard to their progress in the preparation of IT plans, the availability of storage space for computers and the readiness of teachers in using IT in teaching; and

(ii) the Education Department should, as far as practicable, allow adequate flexibility for schools to choose the latest computer systems for implementing the "Information Technology for Learning in a New Era Five-Year Strategy 1998-99 to 2002-03" (IT Strategy);

- express grave dissatisfaction that a considerable number of schools do not understand the Government's IT policy in education or how the target of having 25% of the school curriculum taught through IT is to be measured;

- note the Director of Education's undertaking to provide schools with guidance and advice to help them interpret the meaning of the 25% target;

- urge the Education Department to expeditiously define more clearly the 25% target;

- recommend that the Director of Education should keep under review the security risk of computer equipment in schools to see if there is a need to strengthen the security arrangement in future;

- note that it is the policy objective of the Information Technology and Broadcasting Bureau (ITBB) to assist the Education and Manpower Bureau (EMB) in promoting the use of IT in education, and urge the ITBB to collaborate closely with the EMB in the latter's endeavour; and

- recommend that the Director of Education should keep the Committee informed of the implementation progress of the IT Strategy, including:

(i) the schools' progress in formulating and implementing their IT plans and the results of implementation;

(ii) the progress of schools in using IT in education; and

(iii) the progress of the Curriculum Development Council's review of the school curriculum.

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

Eric LI Ka-cheung
(Chairman)

Fred LI Wah-ming
(Deputy Chairman)

David CHU Yu-lin

NG Leung-sing

Sophie LEUNG LAU Yau-fun

LAU Kong-wah

Emily LAU Wai-hing

30 June 1999

CHAPTERS IN THE DIRECTOR OF AUDIT'S REPORT NOS. 30, 31 AND 32 DEALT WITH IN THE PUBLIC ACCOUNTS COMMITTEE'S REPORT

Director of Audit's Report No. 30 Chapter	**Subject**	**P.A.C. Report No. 32 Chapter**
7	Acceleration of works in the Strategic Sewage Disposal Scheme Stage I	1
Director of Audit's Report No. 31 Chapter		
6	Footbridge connections between five commercial buildings in the Central District	2
Director of Audit's Report No. 32 Chapter		
1	Management services in public rental housing estates	3
2	The construction of the Kwai Chung Viaduct	4
3	Control of obscene and indecent articles by the Television and Entertainment Licensing Authority	5
4	The Administration of the Comprehensive Social Security Assistance and Social Security Allowance Schemes	6
5	The Government's monitoring of electricity supply companies	7
6	Construction of the Hei Ling Chau Typhoon Shelter	8

CHAPTERS IN THE DIRECTOR OF AUDIT'S REPORT NOS. 30, 31 AND 32 DEALT WITH IN THE PUBLIC ACCOUNTS COMMITTEE'S REPORT

Director of Audit's Report No. 32 Chapter	Subject	P.A.C. Report No. 32 Chapter
7	Management of telecommunications services under the 1988 Technical Services Agreement	9
8	Practical Schools and Skills Opportunity Schools	10
9	Services provided by the Social Welfare Department for offenders and children/juveniles in need of care or protection	11
10	Use of information technology in schools	12

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. In the event of the temporary absence of the chairman and deputy chairman, the committee may elect a chairman to act during such absence. The chairman and 2 other members shall constitute a quorum.

(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) 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 have a casting vote.

(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.

Principal witnesses who appeared before the Committee (in order of appearance)

Mr Gordon SIU Kwing-chue, JP	Secretary for Planning, Environment and Lands
Mr R D Pope, JP	Director of Lands
Dr CHOI Yu-leuk, JP	Director of Buildings
Mr Bosco FUNG Chee-keung, JP	Director of Planning
Ms Maria KWAN Sik-ning, JP	Acting Secretary for Economic Services
Mr Eric Johnson	Principal Assistant Secretary (Economic Services) B
Mr LI Kwok-tso, JP	Principal Assistant Secretary (Economic Services) Financial Monitoring
Mr LAM Kam-kuen	Acting Assistant Director (Energy Efficiency), Electrical and Mechanical Services Department
Mrs Rebecca LAI KO Wing-yee, JP	Acting Secretary for Financial Services
Mr TANG Kwong-yiu, JP	Government Economist
Mr Mike Price	Managing Director, CLP Power Hong Kong Limited
Mrs Annette Hobhouse	Commercial Manager, CLP Power Hong Kong Limited
Mrs Sandra MAK	Group Public Affairs Manager, CLP Power Hong Kong Limited
Dr Albert POON	Chief Planning Manager, CLP Power Hong Kong Limited
Mr Wayne Harms	Director, Castle Peak Power Company Limited

Mr TSO Kai-sum	Managing Director, Hongkong Electric Company Limited
Mr Francis LEE Lan-yee	Director and General Manager (Engineering), Hongkong Electric Company Limited
Mr Gary CHANG Chung-keung	General Manager (Development and Planning), Hongkong Electric Company Limited
Mr SUNG Shu-kwai	Chief Hardware and System Planning Engineer, Hongkong Electric Company Limited
Mr Eddy CHAN, JP	Commissioner for Television and Entertainment Licensing
Mr KWONG Ki-chi, GBS, JP	Secretary for Information Technology and Broadcasting
Mrs Rita LAU NG Wai-lan, JP	Deputy Secretary for Information Technology and Broadcasting (1)
Mr WONG Tsan-kwong	Acting Commissioner of Police
Mr John TSANG Chun-wah, JP	Commissioner of Customs and Excise
Miss Denise YUE Chung-yee, JP	Secretary for the Treasury
Mr Albert LAM Kwong-yu, JP	Director of Civil Aviation
Mr LEUNG Woon-yin	Assistant Director (Technical and Planning), Civil Aviation Department
Mrs Emily CHIK CHEUNG Yuk-wah	Acting Chief Treasury Accountant, Civil Aviation Department
Mr CHU Pui-hing, JP	Acting Director of Broadcasting
Mr SHUM Man-to, JP	Director of Accounting Services
Mr LAI Kwok-ying, JP	Government Property Administrator
Mr Howard LEE Tat-chi	Principal Assistant Secretary (Economic Services) New Airport

Mrs Fanny LAW, JP	Director of Education
Mr NG Kwok-chuen	Assistant Director of Education
Mr LAU Kam-hung, JP	Director of Information Technology Services
Mr Raymond CHAN Pak-ho	Chief Systems Manager, Information Technology Services Department
Mr Joseph WONG Wing-ping, GBS, JP	Secretary for Education and Manpower
Dr the Hon Rosanna WONG Yick-ming, JP	Chairman, Hong Kong Housing Authority
Mr John Anthony Miller, JP	Director of Housing
Mr Vincent TONG Wing-shing	Business Director/Management, Housing Department
Mr LEUNG Kwok-sun, JP	Director of Highways
Mr WONG Chun-wai	Deputy Project Manager/Major Works, Highways Department
Mr KWONG Hon-sang, JP	Secretary for Works
Mr Jack SO Chak-kwong, JP	Chairman, Mass Transit Railway Corporation
Mr Russell Black	Project Director, Mass Transit Railway Corporation
Mr Ray Halstead	Contracts Administration Manager (Special Projects), Mass Transit Railway Corporation
Mrs Miranda LEUNG CHAN Che-ming	Corporate Relations Manager, Mass Transit Railway Corporation
Mrs Betty CHAN LEE Pik-hang	Public Relations Manager, Mass Transit Railway Corporation
Mr Andrew LEUNG Kin-pong, JP	Director of Social Welfare
Mrs Rachel Cartland, JP	Assistant Director (Social Security), Social Welfare Department

Mrs Katherine FOK LO Shiu-ching, JP	Secretary for Health and Welfare
Mr HO Wing-him	Deputy Secretary for Health and Welfare
Mr Carlos LEUNG Sze-hung, JP	Assistant Director (Youth/Human Resource Management), Social Welfare Department
Mrs Regina IP LAU Suk-yee, JP	Secretary for Security
Mrs Elizabeth YEUNG LAU Sau-ching	Principal Management Services Officer (Security), Security Bureau
Mr Robin C Gill	Deputy Secretary for Health and Welfare
Mr Stephen IP Shu-kwan, JP	Secretary for Economic Services
Mr LEE Lo-tung	Assistant Director (Energy Efficiency), Electrical and Mechanical Services Department
Mr Stephen LAU Chi-sing	Economic Planning Manager, CLP Power Hong Kong Limited
Mr Marco WU Moon-hoi, JP	Acting Director of Housing

Introductory remarks by the Chairman of the Public Accounts Committee, the Hon Eric LI Ka-cheung, JP, at the first public hearing of the Committee on Tuesday, 4 May 1999

Good morning, ladies and gentlemen. Welcome to this public hearing of the Public Accounts Committee.

For the benefit of the members of the public and other concerned parties who are interested, I would like to give a brief outline about the role and function of the Public Accounts Committee.

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 accounts and the results of value for money audits of the Government and of any organizations which receive income from public moneys.

For the Committee, public hearing is a crucial part of our work, the purpose of which is to explore the background and the facts surrounding the issues raised in the Director of Audit's reports. Our approach, as always, will be fact-finding and problem-solving rather than assigning blame and expressing opinions. I wish to emphasize that our aim in examining the issues raised in the Director of Audit's reports is that any observations we make and conclusions we draw are both constructive and positive. The objective of the whole exercise is to maintain and improve the high accounting standards of the Government of the Hong Kong Special Administrative Region, and to learn lessons from the past in order to improve control over expenditure and to ensure that every cent of public funds is spent with due regard to economy, efficiency and effectiveness.

The Director of Audit's Report on the results of value for money audits completed between October 1998 and February 1999, i.e. Report No. 32, was tabled in the Legislative Council on 21 April 1999. Following our preliminary study of the Director's Report, the Committee have decided to look into eight of the issues raised, and for this purpose we have invited the public officers and relevant parties concerned to appear before the Committee and answer our questions. Apart from this morning, we have also set aside the morning of 7 May for our public hearings. After we have studied the issues and taken the necessary evidence, we will produce our conclusions and recommendations which will reflect the independent and impartial judgement and views of the Committee. These recommendations will be

made public when we report back to the Legislative Council within three months' time. Before then, we will not, as a committee or individually, be making any public comment on our conclusions.

I now declare the Committee to be in formal session.