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# **THE GOVERNMENT MINUTE**

in response to

## **THE SEVENTH ANNUAL REPORT OF THE COMMISSIONER FOR ADMINISTRATIVE COMPLAINTS HONG KONG**

dated June 1995

Government Secretariat  
18 October 1995

**THE GOVERNMENT MINUTE IN RESPONSE TO THE  
SEVENTH ANNUAL REPORT OF THE COMMISSIONER FOR  
ADMINISTRATIVE COMPLAINTS HONG KONG  
DATED JUNE 1995**

**Introduction**

The Chief Secretary presented the Seventh Annual Report of the Commissioner for Administrative Complaints (COMAC) to the Legislative Council at its meeting on 19 July 1995. The Administration undertook then to prepare a Government Minute in response to the Commissioner's report in three months' time.

2. This Minute sets out in the following paragraphs the actions that the Administration has taken or proposes to take in response to the Commissioner's recommendations in his investigation reports on the cases listed in Appendix K of his report.

**BUILDINGS DEPARTMENT**

**Case No. OCAC 159/93 : Delay in taking enforcement action against the unauthorized removal of a cockloft in a building by one of the flats owners and later unreasonably requiring all the owners to rectify the building defects caused by its late reinstatement**

3. The Director of Buildings has set under the department's Performance Pledge a target that reports about unauthorized building works should be screened and inspected within 40 days to decide on priority for follow-up action. In respect of the complaint case, repair works are no longer required because "consent for demolition" of the building was given in August 1995. The building is now under demolition.

**Case No. OCAC 166/93 : Delay in taking enforcement action against a huge unauthorised air-conditioning plant installed on the flat roof of an old building by a fast-food shop.**

4. In line with COMAC's recommendations, the Director of Buildings will commission a programme for microfilming old building records, files, plans and calculations to facilitate speedy retrieval of records. To keep track of the Land Registry's replies on ownership details, a more systematic bring up system is being introduced. There have also been discussions between the Land Registry and the Buildings Department on the possibility of providing on-line information including the last known address of the registered owner.

**Case No. OCAC 42/94 : Failure to notify promptly the flat owner of repair works by the Government Contractor on her leased-out premises and the demand for payments, resulting in her having to pay court costs and interest for late settlement of the payments.**

5. At the Director of Buildings' request, the Management Services Agency has conducted a 'Study on Registry Services' of Buildings Department' which also covers measures to facilitate checking the addresses of building owners. The Director is considering the recommendations of the study.

6. A system has also been set up for keeping records and taking prompt action on returned undelivered mail, which includes sending the returned mail to the occupant of the property or the ratepayer for onward transmission to the owner.

**Case No. OCAC 128/94 : Selective enforcement action against the unauthorised building works outside complainant's premises and improper handling of complaints.**

7. The Director of Buildings has put COMAC's recommendations into effect. Staff have been reminded to reply to all enquiries as promptly as possible and, where necessary, to issue an interim reply. The Director also sent

a letter of explanation to the complainant on 1 March 1995. The complainant was informed of the outcome of investigation on the suspected leakage on 13 March 1995.

**Case No. : OCAC 195/94 : Failure to take enforcement action to remove a ventilation duct on the roof of an unauthorised structure.**

8. The Director of Buildings has instructed that any sizeable illegal structure constructed on-top of an existing unauthorised structure would be classified as high priority for Government action. An order to effect the removal of the ventilation duct in question was issued on 21 July 1995.

**Case No. OCAC 536/94 : Inaction on a complaint regarding unauthorised building works in a multi-storey building.**

9. As recommended, the Director of Buildings sent a letter of apology to the complainant on 8 February 1995, setting out also the department's findings of the site inspection and the intended course of action.

10. Staff of the department have also been reminded to give a timely response to complainants and to keep them informed of the outcome of the investigations.

**Case No. OCAC 312/95 : Failure to respond to written complaints on the structural changes to a building.**

11. In line with COMAC's recommendation, the Director of Buildings has reminded her staff to give a timely reply to complainants. Further reminders will be issued to staff on a regular basis.

## CIVIL ENGINEERING DEPARTMENT

**Case No. OCAC 111/94 : Having wrongly decided not to include certain squatter huts in a hillside village clearance exercise.**

12. This complaint was also made against the Housing Department, the Lands Department and the City and New Territories Administration (now Home Affairs Department).

13. As recommended, the Non-Development Clearance Liaison Group has invited the Home Affairs Department to appoint a representative to the Group to advise on community and public relation matters.

14. The Non-Development Clearance Liaison Group has also considered COMAC's recommendation of drawing up new guidelines in the planning stage for future clearances. The Group believed that flexibility would be required in the implementation of non-development clearances. Rather than establishing new guidelines, the inclusion of 'special considerations' as a factor in a clearance exercise should be considered on a case by case basis.

**Case No. OCAC 169/94 : Having wrongly decided not to include certain squatter huts in a hillside village clearance exercise.**

15. Please refer to Case No. OCAC 169/94 under Housing Department.

**Case No. OCAC 198/94 : Unfairly excluding the village of the complainants from the 1994/95 Non-Development Clearance.**

16. The complaint was not substantiated and COMAC did not recommend any follow up.

**CORRECTIONAL SERVICES DEPARTMENT**

**Case No. OCAC 160/93 : Failure to refer a prisoner's application for legal aid to the Legal Aid Department to appeal against his conviction of robbery.**

17. The Commissioner of Correctional Services has accepted COMAC's recommendation. Prisoners' requests in loose forms are now recorded in a request register with a cross-reference made in the individual prisoner's penal record. Loose documents to be retained in a prisoner's penal record are protected from loss by an index number and bound either by Indian tag or rivet to become part of the record.

**Case No. OCAC 13/94 : Unreasonably removing a prisoner from normal association on an unsubstantiated charge without first conducting a disciplinary hearing.**

18. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 38/94 : Unreasonably removing a prisoner from normal association without producing any evidence against him or conducting a disciplinary hearing.**

19. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 140/94 : Inadequate provision of some facilities to inmates in a panel institution.**

20. The Commissioner of Correctional Services will continue to strengthen communication with prisoners through the induction programme, notice displays and the service of Welfare Officers. In regard to the receipt of daily commodities at the panel institution, a more flexible arrangement has been introduced last April whereby prisoners who do not expect to receive a second visit in the month can on application to and with permission of the Superintendent receive the total quantities allowed for the month in one visit. The new arrangement has been widely publicized through ad hoc briefings to all prisoners, notice displays throughout the prison including the Visit Room and the induction programme. As regards the toilet facilities at the institution, the department has been in consultation with the Architectural Services Department and will continue to pursue possible improvements to minimise the effects of vandalism.

**Case No. OCAC 142/94 : Wrongfully taking disciplinary action against complainants and unfair treatment.**

21. The Commissioner of Correctional Services has forwarded his proposals to amend the Prison Rules to the Secretary for Security for consideration.

22. Prison Rules 228 and 231 already provide for visiting Justices of the Peace (JP's) to hear and investigate complaints of whatever nature from prisoners, including discipline matters, and to inspect any prison books, including records of disciplinary proceedings. The Chief Secretary's Office has amended the invitation letter to the JP's to set out in full the contents of the relevant Prison Rules.

**Case No. OCAC 191/94 : Failure to provide special protection to ensure the complainant's safety contrary to a court order.**

23. COMAC did not recommend any follow up. He noted that the department had already followed up on the recommendations of its own Complaints Investigation Unit.

**Case No. OCAC 257/94 : Unfair treatment to a prisoner in a panel institution.**

24. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 270/94 : Unreasonable and improper treatment to a prisoner in two panel institutions.**

25. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 57/95 : Failure to provide proper protection to an inmate.**

26. The Commissioner of Correctional Services has undertaken to provide, as far as practicable, written replies to prisoners who have submitted written representations to him. In this particular case, the complainant was subsequently transferred to another prison.

## **CUSTOMS & EXCISE DEPARTMENT**

**Case No. OCAC 45/94 : Failure to record the chassis number of a confiscated trailer which was subsequently auctioned but could not be re-registered due to the discrepancy of the chassis number from the registered one.**

27. The complaint was directed against the Customs and Excise Department, the Transport Department and the Government Supplies Department (GSD).



28. COMAC did not make any specific recommendation. The Director of Government Supplies has reviewed the procedures for auction of confiscated vehicles and has implemented the following improvements -

- (a) The Notice of Auction issued by the GSD has been amended to reinforce the message that the Commissioner for Transport is not obliged to approve the registration of vehicles sold at a government auction; and
- (b) Originating departments are required to provide, as far as possible, the registration number chassis number and engine number of the vehicles to be auctioned for inclusion in the Auction List. The GSD will check with the Transport Department beforehand to confirm whether these numbers tally with the records.

29. The Commissioner for Customs and Excise has also issued a departmental circular requiring more management information on seized goods. In the case of seized vehicles, the brand name, model, type, registration number and chassis and engine numbers are now recorded.

## DEPARTMENT OF HEALTH

**Case No. OCAC 90/94 : Impoliteness in handling the registration of an out-patient in a specialist clinic and making perfunctory investigation of his subsequent complaint to the clinic.**

30. The Director of Health has accepted COMAC's recommendations and implemented the following -

- (a) the Standing Circular on Departmental Complaints Procedure has been revised to ensure that complaints are investigated by impartial officers, and the circular has come into effect since 1 January 1995;
- (b) officers responsible for handling complaints have been briefed and reminded of COMAC's recommendations. They fully understand the need to get well-conversant with the case and to provide in the reply

the name and contact number of other officers who could answer the complainant's questions. Whenever there is a change of staff, the above requirement will be explained to the new staff as part of their induction; and

- (c) a formal letter of apology was sent to the complainant on 20 October 1994.

**Case No. OCAC 137/94 : Mishandling the complainant's telephone enquiries on the port health clearance service.**

31. The Director of Health has accepted all the COMAC's recommendations and has taken the following actions -

- (a) all the port health officers have been reminded to be helpful and courteous whenever they encounter enquiries. The department has subsequently issued a Standing Circular on Telephone Courtesy on 4 January 1995;
- (b) a formal enquiry service for shipping agents has been set up and the shipping agents have been advised on 22 December 1994 of the enquiry service and encouraged to apply for radio pratique;
- (c) a telephone answering machine has been installed and put into use in the duty room of the Harbour Section Office to record telephone messages since 27 February 1995; and
- (d) a formal letter of apology was sent to the complainant on 28 November 1994.

## **DRAINAGE SERVICES DEPARTMENT**

### **Case No. OCAC 545/94 : Failure to clear a blocked drainage.**

32. The Director of Drainage Services agrees with COMAC's recommendations and considers that they are already being implemented in the department. The Drainage Services Department maintains a Direct Labour Force which checks every problem that is brought to their attention. These problems are principally minor blockages in the sewage system and in the stormwater drainage system. If the problem lies with the private sewer, the owner will be so informed. As regards enhancing communications between departments, this is an on-going process.

## **EDUCATION DEPARTMENT**

### **Case No. OCAC 8/94 : Delay in replying to the notice of resignation served by a teacher on overseas no-pay leave, resulting in his failure to make arrangements to return to Hong Kong on time to serve out the notice period.**

33. The Director of Education has accepted COMAC's recommendations. The Department has in fact regularly reminded its staff of the need to handle incoming correspondence promptly. As suggested by COMAC, the outstanding loan has also been recovered from the complainant.

### **Case No. OCAC 18/94 : Impropriety in allowing the reply to the complainant to be signed by an officer who was the subject of a previous complaint lodged by the complainant.**

34. In line with COMAC's recommendation, a new arrangement was implemented in April 1995 whereby an officer should not handle a complaint case if he is the subject of the complaint or of previous complaints by the same

complainant. Such an officer will not be allowed to investigate, supervise or sign any correspondence directed to the complainant of the case at issue.

**Case No. OCAC 120/94 : Improper change of the land use of a site adjoining a Home Ownership Scheme (HOS) court.**

The Director of Housing will make every effort to ensure that the information included in the HOS sales brochures is accurate. In preparing future sales brochures, the department will take into consideration COMAC's recommendation that planned projects/land reservation should be carefully annotated if these are to be included.

**Case No. OCAC 381/94 : Delay in processing a college's application for school registration and the rude and fearsome manner of two officers in their visit to the college.**

36. The Director of Education has accepted COMAC's recommendations. The school registration procedures are under constant review, and this is a continuing process. Immediate action will be taken under the Education Ordinance on any suspected unregistered school activities. The Director of Education has reminded his staff to show their warrant cards upon request during duty visits unless they have good reasons not to do so. The department has also followed up with the Buildings Department in respect of the complainant's application and the required certificates were subsequently issued.

## ENVIRONMENTAL PROTECTION DEPARTMENT

**Case No. OCAC 64/94 : Maladministration in the planning of the redevelopment of the Hong Kong Stadium leading to excessive noise being generated from pop concerts staged at the Stadium.**

37. Please refer to Case No. OCAC 64/94 under Government Secretariat - Recreation and Culture Branch.

**Case No. OCAC 103/94 : Failure to exercise proper control on the building contractor for the abatement of noise nuisance generated from construction activities in a public housing building site.**

38. Please refer to Case No. OCAC 103/94 under Housing Department.

**Case No. OCAC 110/94 : Being irresponsible in issuing an Emission Test Notice.**

39. With the approval of the Secretary for the Treasury, an ex-gratia payment in the amount of the testing fee was made to the complainant.

**Case No. OCAC 453/94 : Failure to honour the Department's promise to allow retention of a pigsty adjacent to the complainant's house.**

40. The Director of Environmental Protection accepted COMAC's recommendations and advised the complainant to re-submit an application for converting the pigsty into a storeroom. An affirmative reply was received in August 1995 from the District Lands Officer that a new Government Land Licence covering the concerned pigsty would be issued to the complainant.

41. The Director of Environmental Protection is arranging the issue of a demand note to the complainant for refund of the ex-gratia allowance in respect of the concerned pigsty.

42. The department will continue to respond to general complaints and enquiries within seven days, as indicated in the Department's Performance Pledge.

## GOVERNMENT PROPERTY AGENCY

**Case No. OCAC 44/94 : Unreasonable procedure for tender of commercial premises in Government properties in requiring the prospective bidders to produce a business registration certificate before accepting their bids.**

43. The complaint was not substantiated and COMAC did not recommend any follow up.

## GOVERNMENT SECRETARIAT- RECREATION AND CULTURE BRANCH

**Case No. OCAC 64/94 : Maladministration in the planning of the redevelopment of the Hong Kong Stadium leading to excessive noise generated from pop concerts staged at the Stadium.**

44. To fully implement COMAC's recommendation, the Chief Secretary has directed that -

- (a) in future, for similar projects, i.e. those that are not being constructed under standard Public Works Programme procedures, a policy branch will be designated to be the overall co-ordinator from the outset to ensure that all established Government procedures including those governing noise and safety standards are complied with;
- (b) a checklist of major issues relevant to the projects must also be drawn up, and issues that cannot be resolved speedily must be brought to the attention of senior officers with a view to solving them to the satisfaction of all parties concerned; and
- (c) in planning projects of a similar nature, Government's laid down procedures for application of an Environmental Impact Assessment must be followed.

## GOVERNMENT SUPPLIES DEPARTMENT

**Case No. OCAC 45/94 : Selling through public auction a confiscated trailer which could not be re-registered because its chassis number was different from the registered one.**

45. Please see Case No. OCAC 45/94 under Customs & Excise Department.

## HIGHWAYS DEPARTMENT

**Case No. OCAC 294/94 : Delay in the issue of a demand note for a traffic sign post damaged in an accident.**

46. In this case, the delay in issuing a demand note was due to the contractor's delay in submitting a claim for the repair cost. COMAC recommended that a standard term under contract which allows the department to value the work and to certify for payment should be invoked when a contractor fails to submit his claims 90 days after completion of work. The Director of Highway had reservation about this recommendation. The intended purpose of this contract condition was to stop prolonged disputes on cost settlement rather than to be a general mechanism to finalize costs. Implementation of COMAC's recommendation would have staff resources implications and was against the "contracting out" spirit in making the best use of government resources.

47. As an alternative, the department has amended its internal procedure. The department produces monthly situation reports of outstanding submissions of payment claims to Regional Offices who monitor the contractors' performance. Late submission of payment would be reflected in the performance report of the contractor, and would impact on its future tendering opportunity. The situation has improved gradually.

48. The department has also started to recover the full amount of interim payments from the contractors as from 1 April 1995 should they fail to submit payment claims within 90 days after completion of works. This arrangement should have a direct effect on the contractor's cashflow and should discourage late submission of payment claims.

**HOME AFFAIRS DEPARTMENT**  
**(formerly City & New Territories Administration)**

**Case No. OCAC 137/93 : Mishandling a dispute between the owners' corporation and the ex-management of a private residential development.**

49. The complaint was not substantiated. However, as recommended, the District Office in this case has sent a letter to the Owners Incorporation clarifying their role in the dispute, admitting that the office had omitted to check ownership status and apologising for any inconvenience caused.

**Case No. OCAC 22/94 : Reneging on the promise to grant a clearee of the Kowloon Walled City a newspaper hawker licence as one of the compensation terms for clearing his business premises in the area.**

50. The Director of Home Affairs has reminded her staff that a reply should be issued to members of the public even when the requests/enquiries made in their correspondence are to be handled by another department. In such cases, the reply should state the referral action that has been taken.

**Case No. OCAC 93/94 : Unfair and unreasonable handling of an application for a guesthouse licence.**

51. The revised edition of the handbook of the Office of the Licensing Authority includes objective standards. Copies have been issued to all officers of the Licensing Office for reference.



**Case No. OCAC 111/94 : Having wrongly decided not to include certain squatter huts in a hillside village clearance exercise.**

52. Please refer to Case No. OCAC 111/94 under Civil Engineering Department.

**Case No. OCAC 169/94 : Having wrongly decided not to include certain squatter huts in a hillside village clearance exercise.**

53. Please refer to Case No. OCAC 169/94 under Housing Department.

**Case No. OCAC 293/94 : Unreasonable confiscation of a bicycle during an operation for clearing illegally parked bicycles.**

54. Please refer to the Case No. OCAC 293/94 under Lands Department.

## HOUSING DEPARTMENT

**Case No. OCAC 163/93 : Improper work arrangement and poor attitude of the staff in replacing the floor tiles in the commercial centre of a public housing estate, causing inconvenience to a shop tenant and affecting his business.**

55. As recommended, the Director of Housing advised the staff concerned on the future handling of similar situations and sent a letter of apology to the complainant in August 1994. The department will continue to

take steps to minimize inconvenience caused by any works, and to improve communication and liaison with shop tenants both before and during the implementation of works. Consultation and liaison with affected shop tenants will be carried out.

**Case No. OCAC 167/93 : Poor management of the common areas and common facilities in a Home Ownership Scheme (HOS) development, and negligence in repairing the water drainage pipe in the complainant's flat causing other damages.-**

56. The Director of Housing has issued a circular in May 1994 to remind staff to ask the tenants/owners to sign a "consent form" before embarking on works likely to cause damage to their fixtures/property. In cases where the process of identifying and rectifying the defect will take a rather long time, the management staff should inform the tenants or owners, say, monthly, of the progress of work.

**Case No. OCAC 30/94 : Poor attitude of the staff in processing a divorcee's application for transfer of public housing tenancy from her ex-husband as ordered by Court, and delay in dealing with her complaint of ceiling leakage in her flat.**

57. The complaint was not substantiated. COMAC did not recommend any follow up.

**Case No. OCAC 34/94 : Failure to keep the promise to rehouse tenants of an old public housing estate affected by redevelopment in a conveniently located reception estate and instead reserving flats thereat for use as staff quarters.**

58. The complaint was not substantiated. COMAC did not recommend any follow up.

**Case No. OCAC 39/94 : Failure to accord to a public housing tenant paying double rent the right priority in processing his application for a HOS flat.**

59. The Director of Housing issued a circular in August 1994 to remind staff that matters of importance should be confirmed in writing by the department and by the tenants, where appropriate, so as to forestall possible misunderstandings or unnecessary arguments in future. To prevent loss of mail to tenants and to facilitate delivery of mail by postmen, all recently completed housing blocks are provided with centrally located letter-boxes. The department also plans to extend these installations to some 50 public housing estates completed in 1980s under a phased programme.

**Case No. OCAC 50/94 : Mismanaging the Domestic Management Fund of a HOS court resulting in losses of the fund and huge increases in the management fee.**

60. In response to COMAC's recommendations, the Director of Housing has taken the follow measures -

- (a) The repair lists were referred, in July 1995, to the professional quantity surveyors appointed under the then Term Maintenance Contracts for assistance to trace the records of the repair work. The department is also seeking their advice on how to apportion the repair costs to individual flat owners concerned. As the records might date back to a number of years ago, it may take some time to confirm the amount before action can be taken to recover the costs;
- (b) Site inspection of the subsided pavement was conducted and remedial works are in progress, including reinstatement of the pavement, checking of possible leakage of underground pipes leading to the subsidence of the pavement and repair to defective underground pipes;
- (c) Management staff have been reminded to follow strictly the proper accounting procedures;
- (d) The provision of carparking spaces in the HOS court will be monitored although so far there is a slight overprovision; and

- (e) The department will continue to encourage the flat owners to take back the management. Every assistance will be rendered to the owners in the formation of an Owners Corporation. The department will only give up the management when the owners are ready and willing to take up the management themselves. The department will keep on with its efforts to enhance a better mutual understanding with the concerned Owners Association. The department will also consider realistic reviews of the management fee in the coming years in order to restore a healthy balance of the Domestic Management Fund by exercising the strictest economy approach.

**Case No. OCAC 51/94 : Unreasonably requiring the flat owners of a HOS development to shoulder the costs of maintaining/repairing a slope and a covered walkway.**

61. To improve communication with HOS owners, staff of HOS estates will hold regular meetings with the owners, with the attendance of community leaders and representatives from District Offices, the Police and service contractors. Through these meetings, owners will be informed and consulted on all major issues concerning the management and maintenance of their estates.

**Case No. OCAC 58/94 : Unreasonably taking enforcement action against complainant's car which was forced to park in the open areas of a public housing estate due to mis-management of its monthly rental car park.**

62. As recommended, an additional clause specifying the step to be taken by carpark hirers if a parking space cannot be found has been incorporated in the Agreement Letter for estates with carparks adopting the "floating system". A notice has also been put up advising carpark hirers of the alternative arrangements when the carpark is full.

63. The management company of the carpark, upon the request of the Housing Department, has refunded the fine to the complainant. The Housing Department has also alerted the management company of the complainant's observations of selective enforcement by its staff. The company has revamped its enforcement team and employed a Senior Business Manager to head the team.

**Case No. OCAC 59/94 : Unfair system of allocating vacant public housing flats for overcrowding relief whereby the complainant was deprived of opportunities to apply for an additional or larger flat for her family.**

64. The department has implemented, since July 1995, a set of revised procedures for relief of overcrowding to ensure that vacant flats would not be left vacant for too long a period. In respect of this complaint case, the department allocated extra manpower resources to speed up the internal decantation exercise of the block. The exercise was concluded in February 1995 with all advertised flats successfully allocated to eligible families including the complainant.

**Case No. OCAC 60/94 : Delay in processing the complainant's application on behalf of her late aged and handicapped parents for external transfer to the public housing estates at which she resided.**

65. The programme on refurbishment of vacant flats has been closely monitored and frequently reviewed by the department with a view to upgrading the standards of and shortening the time required for refurbishment works. Subsequent to the implementation of several improvement measures including the revision of working procedures, the use of computers for data transmission and the engagement of one main contractor to handle both building services and building works, the average time taken to refurbish a vacant flat was reduced from 6 months in 1993 to 3-4 months since early 1994. Further reduction in the target timing is expected with the recent employment of additional contractors. It is anticipated that when the learning curve for the new contractual arrangements levels off, the time required for refurbishing a vacant flat would be 2 to 3 months.

66. In order to speed up the allocation of vacant flats to prospective tenants, the department has also implemented a new procedure since late April 1994. Vacant flats are allocated to eligible households when the refurbishment works are nearing completion.

**Case No. OCAC 61/94 : Unhelpful and irresponsible attitude of the staff in handling complainant's request for an emergency repair to a choked floor drain in the flooding kitchen of his public housing flat.**

67. In order to provide 'customer oriented' services to tenants, the department recently set up a Minor Maintenance Management Unit to consider ways to enhance day-to-day maintenance services. One of the tasks of the Unit is to review existing working procedures for minor maintenance activities, both within and outside office hours, with a view to speeding up the repairs and improving the quality of work. A set of improved procedures with working arrangements has been implemented since April 1995.

68. On-going training courses and periodical briefing sessions are also arranged for the estate assistants to enhance their knowledge of building management matters, to keep them abreast of the department's policies/procedures and to improve their skills in handling the public.

69. Lastly, it has always been the department's practice to advise tenants on the approximate time the artisans will call at their flats and when the repairs can be carried out.

**Case No. OCAC 66/94 : Not taking action to evict the ex-husband of a divorcee from the public housing flat after his name has been deleted from the tenancy agreement as ordered by Court, and subsequently reinstating his name in the tenancy agreement without her knowledge or consent.**

70. The department offered the complainant and her three sons a flat in another estate. This was accepted and the tenancy commenced on 1 August 1994. The original unit has also been recovered from the complainant's ex-husband.

71. The Director of Housing also issued a circular to all estate Housing Managers reminding them of the need to follow closely the procedures laid down in the management instruction papers and manuals and to seek advice from their senior officers, whenever necessary, in dealing with difficult divorce cases.

**Case No. OCAC 76/94 : Unreasonably deleting the name of a tenant from the public housing tenancy without his knowledge and refusing his subsequent reinstatement application.**

72. After a thorough investigation, the Director of Housing was prepared to reinstate the complainant's name in the original tenancy which is in the name of the complainant's uncle. However, in view of the hostility of his uncle towards the complainant, the latter has been allowed to split from his uncle's tenancy. A flat in another estate has been allocated to him in May 1995.

**Case No OCAC 100/94 : Delay in effecting the external transfer of complainant's household to a public housing estate of his choice.**

73. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 103/94 : Failure to exercise proper control over the building contractor for the abatement of noise nuisance generated from construction activities in a public housing building site.**

74. It is already a contractual requirement in all Housing Department contracts to keep logs on noise readings to be taken manually at regular intervals on site. As regards COMAC's recommendation of requiring the contractor to take automatic readings on site, the department will take appropriate action if it is found to be feasible.

75. In addition, the department will also consider stiffer penalties for violation of noise control requirements under the existing "Performance Assessment Scoring System" (PASS). Under PASS, each contractor's performance is assessed each month against the contract requirements and pre-set standards, and awarded points which are then used to establish a league table. Contractors scoring high marks are offered the opportunity to tender for more projects, whereas contractors at the bottom of the league table are restricted in their tendering eligibility or barred from tendering for a fixed period.

**Case No. OCAC 111/94 : Having wrongly decided not to include certain squatter huts in a hillside village clearance exercise.**

76. Please refer to Case No. OCAC 111/94 under Civil Engineering Department.

**Case No. OCAC 139/94 : Not acknowledging written suggestion, not responding to telephone calls and being unhelpful in handling complainant's suggestion for improvement to the shuttle bus service for a Housing Estate Shopping Centre.**

77. A review on the procedures for handling public correspondence is being carried out in the light of COMAC's recommendations as well as the department's available resources. The review is expected to be completed in October 1995.

**Case No. OCAC 141/94 : Unreasonably suspending a divorcee's application for deleting her and her children's names from the tenancy of a public housing flat, rendering her ineligible to apply for another public housing flat under the Civil Service Public Housing Scheme (CSPHS).**

78. The Director of Housing has advised the complainant to re-apply under the CSPHS. However, special consideration could not be given to her as suggested by COMAC because priority for allocation of public housing is



based on the length of service. As the CSPHS quota is limited, the complainant was also advised to register for public housing.

**Case No. OCAC 169/94 : Having wrongly decided not to include certain squatter huts in a hillside village clearance exercise.**

79. The Director of Housing considers that the clearance of the 220 400 squatters on Government Land in the New Territories will be a mammoth task with significant resource implications. This can only be considered as a long term objective of the Administration in the light of existing commitments.

80. The Director of Housing also considers that the general public, including squatter dwellers, who are in need of public housing are well aware of the existing application channels and procedures. If the situation requires, existing publicity arrangements can be strengthened.

81. Lastly, the District Office and the Police will monitor the law and order situation in squatter areas and take appropriate measures where necessary to tackle problems.

**Case No. OCAC 198/94 : Unfairly excluding the village of the complainants from the 1994/95 Non-Development Clearance.**

82. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 226/94 : Failure to reply to complaint about water seepage in the complainant's flat and the impolite and irresponsible manner of a Housing Manager.**

83. As recommended, a suitable message has been included in the Hotline System since 9 March 1995 to advise callers that their enquiries/complaints will only be processed on the following working day (except Saturdays) to avoid misunderstanding.

84. The Director of Housing also agrees with COMAC that if a substantive reply to a written complaint is not available within the pledged time, the complainant should be so advised by way of an interim reply. A departmental circular to remind staff of this is under preparation.

**Case No. OCAC 377/94 : Making wrongful payment of electricity charge out of the management fund of a HOS court.**

85. The re-routing of lights wirings from the HOS court to the nearby housing estate was completed in end February 1994. The Management Office also reimbursed the over-payment of electricity charges to the management fund of the HOS court in March 1994. Residents have been informed by a notice issued in April 1994.

86. Since 25 March 1995, the spotlights at the basketball court outside the HOS court are turned on from 6:00 p.m. to 10:00 p.m. every day. Notices are put up in the area advising the residents of the lighting arrangement. Longer lighting hours will be arranged upon prior request.

**Case No. OCAC 403/94 : Failure to make suitable rehousing arrangements for complainant's family whose public rental unit would be affected by a maintenance programme.**

87. As recommended, the Director of Housing has recovered the rent in arrears for the two flats which were occupied by the same tenant.

88. The Housing Department also referred the case to the Social Welfare Department in December 1994 and May 1995. The complainant and her daughter-in-law were unmotivated to receive service. The complainant's daughter-in-law insisted on obtaining a larger flat or a separate accommodation for the complainant, contending that they were not interested in receiving service or counselling from Social Welfare Department.

89. Under the department's policy, family discord is one of the overriding criteria for splitting, with a subsequent offer of a separate flat for the party concerned. Since the complainant's daughter-in-law claims that her primary concern is to obtain bigger accommodation for the family, which is not

allowed under the current allocation standard, the department cannot offer further assistance to the family. The local estate staff will continue to liaise closely with staff of the Social Welfare Department to provide any possible assistance to the complainant, if and when necessary.

**Case No. OCAC 404/94 : Refusal to allocate an additional unit to the complainant under the overcrowding relief scheme.**

90. With improved measures, the department is now able to complete the refurbishment of vacant flats within four months. There are, however, still some odd cases which take a longer time due to delay in gas removal works, delay in power supply disconnection or inadequate stock of electrical consumer units.

91. It is also the practice to promulgate the established order of priority for allocation on each decantation exercise notice as suggested by COMAC. The department will ensure that this requirement is fully observed by all staff.

## IMMIGRATION DEPARTMENT

**Case No. OCAC 46/94 : Refusal to issue the complainant with a new marriage certificate to replace the one on which his name was wrongly spelt.**

92. The Director of Immigration has taken the following measures endorsed by COMAC-

- (i) the accounting procedures for marriage registration and for the issue of marriage certificates have been revised. Officers are constantly reminded to exercise care in certificate preparation and marrying parties are asked to check the certificate and to acknowledge that the particulars therein are in order;

- (ii) to avoid any possible inadvertence, two clerical officers are posted to man the reception counter whenever both marriage halls of a registry are fully booked;
- (iii) marriage certificates will be computer-printed when civil registration is automated by the end of October 1995; and
- (iv) the department is exploring the need for legislative amendments to empower the Registrar to issue new/replacement marriage certificates.

**Case No. OCAC 65/94 : Delay in processing a foreign domestic helper's application for change of employment and in responding to the complainant's enquiries about the progress of his case.**

93. The Director of Immigration has made new arrangements to ensure that while an applicant will be advised not to make progress checks in order not to cause delay to his application for change of employer, he will also be advised to observe his limit of stay and to apply for an extension of stay before his application for change of employer is finalized.

94. The existing guidelines on handling incoming correspondence are issued to the staff in the form of departmental circulars at 6-monthly intervals. In addition, the staff in the Outside Investigation Section and Extension Section have been further reminded to observe the standard procedures. An Immigration Officer in the Extension Section has been assigned specifically to answer written enquiries.

95. The Outside Investigation Section and Extension Section have taken immediate measures to step up the monitoring system in enhancing staff performance as well as supervision by a senior officer.

**Case No. OCAC 71/94 : Mishandling an application for a permanent identify card by a former Hong Kong resident in unnecessarily requiring him to produce a set of finger-prints.**

96. The Director of Immigration has issued a sectional instruction on the procedures and guidelines for handling applications for claiming the right of abode on grounds of previous residence for not less than 7 years. Staff are also reminded to exercise flexibility in handling such applications.

**Case No. OCAC 94/94 : Failure to enforce the arrangements for separate immigration clearance of residents and non-residents at a border control point and rudeness of the staff in handling complainant's subsequent complaint.**

97. Notwithstanding the existing directional signboards which have been erected in the past to direct passengers to the respective clearance counters, in March 1995 illuminated sign-boxes for the segregation of "Hong Kong Resident" and "Visitor" were installed at the border point in this case to further assist the passengers to queue at the right counters for clearance. A similar review will also be conducted at other control points whenever necessary.

**Case No. OCAC 322/94 : Wrongly withholding complainant's travel document.**

98. The Director of Immigration had issued an instruction to staff reminding them to ensure that each amendment on travel documents had to be properly recorded. He sent a letter of apology to the complainant on 23 January 1995

99. With the full implementation of the Control Automation System in September 1995, on-line checks on movement records are possible. The department will continue to keep the manning requirements under constant review in order to provide an efficient and effective service to the public.

## INLAND REVENUE DEPARTMENT

### **Case No. OCAC 143/94 : Failure to respond to the complainant's enquiries and unreasonably issuing warning to him.**

100. The erroneous issue of the final reminder in this complaint case was mainly caused through an oversight by staff who failed to adhere to the existing instructions and guidelines. The officers concerned were advised to exercise more care. A letter of apology was sent to the complainant on 25 August 1994 and a circular on this particular matter was issued to staff in February 1995.

101. The Commissioner will continue to monitor closely the mail receipt and distribution system to see if there is any room for improvement.

### **Case No. OCAC 358/94 : Wrongful issue of tax returns and failure to issue receipts of tax payments.**

102. The computer system error which resulted in the wrongful issue of a return to the complainant was rectified in October 1994 and a letter of apology was sent to the complainant on 10 November 1994. The Inland Revenue Department has also implemented, as suggested by COMAC, a new procedure in January 1995 by inserting appropriate notes in the recovery notice to draw the taxpayers' attention that if he requires a separate official receipt, he may ask the Inland Revenue Department for the issue of a confirmation of payment.

### **Case No. OCAC 411/94 : Mishandling the complainant's business registration and tax assessment resulting in unnecessary legal proceedings as well as personal inconvenience and distress.**

103. The complaint was not substantiated. However, as recommended, the Commissioner of Inland Revenue sent a letter of apology to the complainant on 9 May 1995.

**Case No. OCAC 471/94 : Freezing the complainant's bank account without warning and withdrawing money from the account.**

104. New procedures to redirect undelivered property tax demand notes to taxpayers' alternative addresses was implemented from 11 July 1995. COMAC's recommendation to include the time frame for processing refunds as a performance pledge item is being actively considered by the department's Service Standard Committee and a report will be finalised by October 1995 for the Commissioner of Inland Revenue's consideration. Taxpayers' obligation to notify the Commissioner of their change of correspondence address will be considered in the department's publicity programme.

**Case No. 499/94 : Refusal to process the complainant's request for change of address submitted in Chinese.**

105. The Commissioner accepted COMAC's recommendations. Training sessions were held for staff of the Business Registration Office in March 1995 and plans were drawn up for strengthening supervision and providing aid to front-line staff. Revision of the format of the Employer's Return has also started in June 1995.

## INTELLECTUAL PROPERTY DEPARTMENT

**Case No. OCAC 387/94 : Delay and negligence in the processing of a trade-mark application.**

106. For the benefit of individual applicants who request application forms, application forms (TM Form No. 3 & 3A) are now securely stapled with explanatory notes and information leaflets relating to the procedures for filing applications for registration of trade marks. Form No. 3A now contains clear indications of the requirement to submit 14 copies of the representations of the trade mark applied for registration.

107. The Registry is prepared to receive applications completed in handwriting for filing. It will arrange manual inputting of the handwritten particulars to the database. The department will regularly consult the project team of the Information Technology Services Department on any further development in Optical Character Recognition facilities which will enable recognition of handwritten particulars on applications. Written guidance and training have been given to frontline staff on how to assist applicants who wish to submit applications in Chinese.

108. In all situations where payment cannot be immediately effected for different reasons, the Registry will arrange for the return of cheques to applicants together with a reply letter. The standard letter used for this purpose has been duly revised to reflect this. The letter also offers other user-friendly suggestions such as inviting the applicant to call at the Registry so that the subject officer can explain to him in person the technical aspects and assist him to complete the application form.

109. The Director of Intellectual Property cannot accept COMAC's recommendation that the cheque received should be retained for a period of time, say a month, for the applicant to provide all the required information. The Director of Accounting Services has advised that Standing Accounting Instructions 945 and 1805 require all public moneys to be banked daily or at the earliest opportunity. Accounting procedures should be designed to comply with this requirement.

## JUDICIARY

### **Case No. OCAC 16/94 : Ineffective performance of bailiff duties in seizing the goods and chattels of a judgement debtor in enforcing a court order.**

110. As recommended, the relevant pamphlet has been revised to encourage the presence of the claimant when the Bailiffs take action to effect a seizure. Also, a revised undertaking/execution instruction form (B.F. 59) which binds the plaintiff/claimant to pay the necessary costs involved in effecting a seizure has been put into use.



**Case No OCAC 23/94 : Discourtesy of a Labour Tribunal Officer towards the representative of the defendant company during the pre-hearing interviews of a labour dispute case.**

111. The Judiciary Administrator issued a letter of apology to the complainant on 16 June 1994 assuring the complainant that the clerical mistake did not have any consequence on the case. Arrangements have been made for a note to be stamped on the Notice of Place and Day Fixed for Hearing to inform defendants of when and where to find out the court number if this number has not yet been fixed. All staff will be regularly reminded to remain patient and courteous despite any difficulties encountered.

112. As regards COMAC's recommendation to review the format of the defendant's statement of defence, since there is no statutory requirement to give the statement of defence in the "Question and Answer" form at the Labour Tribunal, defendants will continue to give the statement in a format of their choice. The Guideline on How to Prepare a Statement of Defence serves only as a reference to facilitate the preparation of such a statement and save the time and effort of all parties concerned.

**Case No. OCAC 81/94 : Late opening of the Summons Office of a Magistracy in the afternoon and unhelpful attitude of its staff in handling complainant's enquiries about whether he had been summoned to attend the court hearing.**

113. Steps have been taken to ensure that all Summons Offices and front desks are duly manned during business hours. Five Accounts Offices of the ten magistracies have each been assigned an additional Clerical Officer II. The remaining staffing requirement will be determined shortly by the management on the basis of the recommendations of the Management Services Agency Review Report.

**Case No. OCAC 85/94 : Failure to inform the payees of the payout hours of the Court's Accounts Office, which were not the same as its opening hours, causing inconvenience to a payee when he went to collect the payment.**

114. The complaint was not substantiated and COMAC did not recommend any follow up. The Judiciary has nonetheless amended the notification to claimants for payment collection to include all payout requirements and the collection hours.

### LABOUR DEPARTMENT

**Case No. OCAC 48/94 : Mishandling a conciliatory meeting for labour dispute in respect of termination of employment, in which the conciliatory officer was completely biased against the employer.**

115. The complaint was not substantiated and COMAC did not recommend any follow up.

### LANDS REGISTRY

**Case No. OCAC 137/93 : Failure to ensure that all the requirements were complied with before approving the registration of an owners' corporation leading to its subsequent revocation, and shifting all the responsibilities to the corporation to rectify the situation.**

116. Please refer to Case No. OCAC 137/93 under Home Affairs Department.

## LANDS DEPARTMENT

**Case No. OCAC 145/93 : Inconsistent treatment in the repossession of land lots owned by the same landowner, some by statutory land resumption whereas others by notices to quit.**

117. As recommended, the Director of Lands reviewed the Notice To Quit (NTQ) procedures and issued an office instruction on the delivery of NTQ on 1 August 1994. A seminar on the subject was held on the same day.

**Case No. OCAC 161/93 : Wrong approval of the redevelopment of a village house without considering its adverse impact on the house on the adjoining lot.**

118. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 41/94 : Unfair allocation of the limited number of small house sites in a village expansion area by replying on the Village Representatives in proposing the selection criteria and nominating the prospective grantees.**

119. As recommended, the Director of Lands issued on 18 May 1995 a Land Instruction to the effect that the Village Representatives should not be invited to nominate grantees in allocation of small house sites under the Village Expansion Area Scheme. Selection criteria proposed by the Village Council would have to be approved by District Lands Office Conference (DLOC) and District Land Office staff would then process the applications based on the approved criteria. However, if the Village Council prefers nomination, the Village Council will be required to produce records of the Village Council meeting and give justifications to support the adoption of nomination. The DLOC will decide whether the nomination is made in a fair and proper manner. A close monitoring system has also been introduced to ensure that the processing time for small house applications is kept to the minimum necessary.

**Case No. OCAC 49/94 : Unreasonable procedures in processing a claim for compensation of a clearance programme.**

120. The department is reviewing all forms and undertakings intended for use by members of the public to ensure they are written in plain and concise language which can be easily understood. The department now provides members of the public with a copy of the deed, declaration, agreement or undertaking which they have signed.

**Case No. OCAC 57/94 : Wrongly approving small house developments in a village in the New Territories.**

121. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 111/94 : Having wrongly decided not to include certain squatter huts in hillside village clearance exercise.**

122. Please refer to Case No. OCAC 111/94 under Civil Engineering Department.

**Case No. OCAC 132/94 : Delay and unfair treatment of complainant's claim for compensation in respect of a property resumed by the Government.**

123. The Secretary for Planning, Environment and Lands is carrying out a comprehensive review of the policy of the Home Purchase Allowance (HPA). Consideration will be given to the suggestion that HPA eligibility should be provided at the time when a property owner is informed of the resumption, as well as that of an explanatory note to the Claim Form.

124. The Director of Lands has also considered the need for a proper appeal channel to consider HPA appeal cases and has put forward his recommendation to the Secretary for Planning, Environment and Lands as part of the review exercise.

**Case No. OCAC 153/94 : Delay in handling an application for a small house and the arrogant attitude and impolite manner of the officer handling complainant's enquiry.**

125. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 169/94 : Having wrongly decided not to include certain squatter huts in a hillside village clearance exercise.**

126. Please refer to Case No. OCAC 169/94 under Housing Department.

**Case No. OCAC 198/94 : Unfairly excluding the village of the complainants from the 1994/95 Non-Development Clearance.**

127. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 228/94 : Failure to respond to complaints and to take enforcement action to remove an illegal roof-top structure of a village house and the rude manner of an officer handling complainant's telephone complaint.**

128. The Director of Lands conducted a survey early this year to examine the seriousness of the unauthorised building work (UBW) in Sha Tin District. Information gathered is being analysed and organized to work out a realistic schedule of priority of the villages for appropriate enforcement action to be considered by DLOC. A proposed programme of large-scale enforcement actions against UBW in a particular village will be discussed in the District Management Committee and will be presented to the District Board for consultation.

129. The Director of Lands considers that the current problem pertaining to small houses in the New Territories is not small taking into consideration the number of irregularities, UBWs, breaches and the associated management and maintenance problems within villages. The decisions on how to take action on breaches against small house lease conditions should rest with the DLOC since other than flexibility and first hand information, the DLOC is more versatile in coping with the political sensitivity, social and traditional issues in the district. Moreover, before taking vigilant enforcement action on structures outside the toleration limit, the DLOC has to consider the constraint of limited staff resources and other work priorities such as Land Sales, Resumption Projects, Development & Non-development Clearances, Small House Grants and redevelopments, etc.

130. The Director of Lands also consider that it is not advisable to make known any policy or guidelines on the toleration of irregularities because such information will not only create misunderstanding and allegations, but mislead the public to believe that such irregularities are legalised. It will also have implications for the authority to take lease enforcement action when required.

**Case No. OCAC 293/94 : Unreasonable confiscation of a bicycle during an operation for clearing illegally parked bicycles.**

131. The Director of Lands has put COMAC's recommendations into effect. 24-hour notice will now be given to owners of illegally parked bicycles. More frequent clearance operations are being carried out. Four temporary warning notice boards are to be erected at the four corners of the target areas well in advance of the planned clearance operation dates.

132. The Working Group on Street Management, a subgroup of the District Management Committee, is also liaising with the Transport Department to explore the possibility of incorporating the identification of bicycle parking sites in the area as part of their current traffic study.

**Case No. OCAC 371/94 : Mishandling complainant's objection to and wrongly approving the processing of three small house private treaty grant applications.**

133. The relevant Land Instruction has been revised to incorporate the procedures on handling small house private treaty grant applications on in-fill sites within the village environs and village extension areas and sites under the village extension area scheme. The revised Instruction was issued in August 1995.

**Case No. OCAC 390/94 : Failure in taking action against operators of a parking lot for breach of contractual conditions.**

134. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 394/94 : Failure to handle a complaint regarding the flooding problem in a village.**

135. As recommended, the Director of Lands liaised with other departments concerned to assess the problem. However, the Buildings Department has advised that the unauthorized filling work concerned would not pose any imminent danger, hence the District Lands Office does not contemplate further action. Recently, a number of proposed small house grants have been approved in respect of the area affected by the former unauthorized reclamation work. As a condition of grant, the grantees are required to submit drainage and site formation plans for approval. By way of interim measures, the grantees concerned have constructed surface channels in between the complainant's house and the affected areas. This should greatly reduce the possibility of flooding happening again.

136. The Director of Lands sent a letter of apology to the complainant for the delay in acknowledging the two letters in time on 11 April 1995. Guidelines on how to deal with complaints/correspondence have been issued to staff.

**Case No. OCAC 426/94 : Unfair treatment and unreasonable compensation in respect of a property resumed by the Government.**

137. The Secretary for Planning, Environment and Lands is conducting a comprehensive review of HPA policy. The Director of Lands has put forward his views on the establishment of an appeal panel to hear appeals on eligibility for HPA.

**Case No. OCAC 436/94 : Failure to take enforcement action against unauthorised use and occupation of government land near a village in the New Territories.**

138. The Commissioner for Transport has advised that the present policy to provide facilities to help vehicle owners to dispose of old vehicles lawfully when they are no longer roadworthy works well. He has no plans to change the existing practice, but will continue to monitor the situation to ensure that the problem of abandoned vehicles is under control.

139. The Commissioner of Police considers that it is beyond the bounds of the law for them to issue fixed penalty tickets to suspect abandoned vehicles on government land. Apart from possible legal limitations, various other aspects will have to be taken into account, e.g. priorities and staff resource constraint. As a result, the present arrangement in dealing with abandoned vehicles will continue.

140. Abandoned vehicles are purchased by the government contractor who has to pay a specified amount. There is therefore no cost to the tax-payer. With regard to the removal of abandoned vehicles from locations other than outlying islands, the District Lands Officer will need at least 14 days to make arrangements and the Commissioner for Transport another 21 days. An internal performance target of 35 working days, excluding rainy days, has therefore been set.

141. As regards indiscriminate dumping of rubbish, junk and building debris on government land, there are already provisions in existing laws, including the Crown Land Ordinance, Public Health and Municipal Services Ordinance, Summary Offences Ordinance and Waste Disposal Ordinance, for dealing with the problem.



**Case No. OCAC 235/95 : Mishandling an objection to two applications for building small houses in front of the complainant's houses.**

142. The Director of Lands has instructed the concerned District Lands Officer to monitor the situation and to step in and take appropriate action in accordance with established procedures if the objection is not withdrawn after a reasonable period of time. The District Lands Officer anticipates that the objection will not be withdrawn in a short period of time as there appears no sign of compromise between the parties concerned. He has invited the Village Representatives to assist in mediating an agreeable resolution. If the situation warrants further action, the relevant Rural Committee will be consulted at an appropriate stage.

### **LEGAL AID DEPARTMENT**

**Case No. OCAC 33/94 : Failure to provide legal assistance to a prisoner convicted of murder resulting in his having to attend unrepresented the hearing of his appeal against conviction in the Court of Appeal, and earlier refusal to provide him before the appeal hearing a Chinese translation of the record of proceedings and judgement of High Court in relation to his conviction.**

143. In line with COMAC's recommendation, the Director of Legal Aid has issued a Departmental Circular on 28 June 1994 to remind her staff to reply promptly to their clients' written requests or enquiries.

144. The Director of Legal Aid is of the view that neither the Court nor the Legal Aid Department has the resources to cope with the request for a Chinese translation of over 500 pages of Court proceedings. The full documents are likely to be of limited use to the complainant, as he may not have the legal knowledge to enable him to identify any ground of appeal from the documents. The complainant in this case had in fact remained on legal aid.

**Case No. OCAC 116/94 : Giving incorrect advice to complainant about statutory stay and refusing to receive the complainant despite her request.**

145. The Director of Legal Aid has accepted COMAC's recommendations. To avoid any further misunderstanding on the part of legal aid applicants about the statutory stay procedure, a bilingual explanatory leaflet on the subject has been prepared for distribution since early 1995. The department has also reviewed its standing procedure in receiving members of the public who have asked to see a case officer without appointment, with a view to providing the best possible customer-oriented service.

**Case No. OCAC 437/94 : Delay in processing a legal aid case concerning a land dispute in the New Territories.**

146. The Director of Legal Aid has reassigned the case in question to another firm of solicitors since June 95, who have been asked to examine the case afresh. The Director of Legal Aid will keep COMAC informed of progress in due course.

147. A Working Group has also been set up in May 1995 to review the existing arrangement of assigning and monitoring legal aid cases. Action is being taken to strengthen the system of bringing-up files and monitoring progress of assigned out cases. The Working Group will also consider other measures which could be adopted to improve monitoring.

**Case No. OCAC 474/94 : Delay in processing complainant's petition for divorce.**

148. The Director of Legal Aid sent a letter of apology to the complainant on 10 December 1994. A decree nisi was granted to the complainant on 25 April 1995, and a decree absolute made on 3 July 1995.

149. The Family Litigation Section of the Legal Aid Department has also taken positive steps to review and to strengthen the system and procedures for monitoring cases.

## POST OFFICE

**Case No. OCAC 457/94 : Mishandling a complaint about a postman mistreating a pet dog.**

150. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 462/94 : Poor postal service to a building with no lift.**

151. The Post Office has standing instructions that all datestamps in use are checked at the beginning of each calendar year to see if replacements are required and that datestamps should be cleaned regularly. Upon receipt of COMAC's recommendation, further instructions have been issued to all offices reminding the staff concerned to ensure that datestamps are regularly cleaned and worn out ones replaced.

152. As the complainant was unable to provide details of the double-registered item sent to her from Japan, the Post Office was unable to conduct further investigation into the matter.

## RATING AND VALUATION DEPARTMENT

**Case No. OCAC 79/94 : Wasting complainant's time in inviting her to attend an interview to discuss her objection to the valuation of her property.**

153. The Commissioner of Rating and Valuation has issued a memo to staff in August 1994 to remind them to make the purpose of any proposed meeting with a dutypayer absolutely clear, and to advise dutypayers that if they were too busy to come to a meeting, they could send their objections and supporting documents by post.

**Case No. OCAC 561/94 : Having wrongly processed complainant's objection to the new rateable value of his property.**

154. The Commissioner of Rating and Valuation has issued explanatory letters to objections when dealing with 1995 proposals. Provided that the review process will not be slowed down, the Commissioner of Rating and Valuation is prepared to do the same in future years.

155. The Commissioner of Rating and Valuation considers that the notes printed on back of the Form R22A already inform ratepayers that his decision on Form R22A is not final and any ratepayer has a right to appeal to the Lands Tribunal.

156. The Commissioner of Rating and Valuation has also considered COMAC's recommendation that the expiry date of the statutory period for proposals should be clearly spelt out in the Form R20A. He considers that there are practical difficulties in implementing this. The expiry date of the statutory period differs, depending on whether it is a revaluation year or a non-revaluation year. Ratepayers may not be able to differentiate. The Commissioner will nonetheless give this recommendation further thought.

## REGIONAL SERVICES DEPARTMENT

**Case No. OCAC 22/94 : Reneging on the promise to grant a clearee of the Kowloon Walled City a newspaper hawker licence as one of the compensation terms for clearing his business premises in the area.**

157. COMAC did not make any recommendation to the Department. Please refer to Case No. OCAC 22/94 under Home Affairs Department.

**Case No. OCAC 265/94 : Improperly managing the maintenance work in a Park on a Sunday thus putting complainant's son at risk.**

158. The Director of Regional Services has put COMAC's recommendations in effect.

159. He issued a letter of apology to the complainant on 29 March 1995.

160. District Leisure Managers of the department have been instructed that work of any nature should be avoided in parks on Sundays and Public Holidays. If there is any very urgent and unavoidable work, appropriate and effective safety precautions and arrangements should be taken.

161. District staff have been advised to take adequate and effective safety precautions in the operation of horticulture machinery in order to ensure public safety. Assistance from the Urban Services Department Training School has been sought to provide refresher training for park and playground staff on the operation of horticulture plant and equipment in order to keep them abreast with new operational techniques and technology.

## SOCIAL WELFARE DEPARTMENT

**Case No. OCAC 102/94 : Reneging on the promise to assist a divorcee to apply for compassionate rehousing and failure to give her proper advice on how to solve her housing problems.**

162. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 233/94 : Having wrongly approved revision of the monthly fee of a day nursery.**

163. The Child Care Centres Advisory Inspectorate of the Social Welfare Department has reminded all child care centre administrators in the

aided sector to brief parents on the proposed annual fee revision as well as the causes for the revision and to approach staff of the department for assistance as necessary. The Inspectorate has also made it a standing practice to issue such reminders to child care centres management in July each year.

**Case No. OCAC 259/94 : Negligence of duty in handling a case of suspected child abuse and making false allegation against the complainant.**

164. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 368/94 : Underpayment of Comprehensive Social Security Assistance (CSSA).**

165. In response to COMAC's recommendation, the staff concerned further interviewed the complainant and thoroughly explained to her in detail the CSSA Scheme and the calculation of her monthly entitlements.

**Case No. OCAC 389/94 : Loss of some original documents of complainant's son and the rude manner and irresponsible attitude of the staff handling the matter.**

166. As recommended, the Director of Social Welfare sent a letter of apology to the complainant. The Probation Officer concerned subsequently obtained a duplicate copy of the Certificate on Completion of Apprenticeship, the statement of results in the Junior Secondary Education Assessment and other school records. These have been delivered to the complainant's son.

167. A verbal warning was served to the Probation Officer concerned for her carelessness in handling her client's personal documents and a general circular was issued to remind staff of the guidelines for handling original documents submitted by clients

**Case No. OCAC 141/95 : Mishandling the enquiries regarding the construction of a community centre in a public housing estate.**

168. The Director of Social Welfare sent a letter to the complainant's Association and replied substantively to its enquiries. The officers concerned were advised to ensure that letters from the public must be properly handled. A general circular was also issued to remind staff to follow the guidelines when dealing with correspondence from the public.

## **TRANSPORT DEPARTMENT**

**Case No. OCAC 20/94 : Unfair system of driving test which relied solely on the personal judgement of a single examiner in determining whether a candidate passed the test, and not responding to a complaint letter in this regard.**

169. The Commissioner for Transport considers that it is not feasible and advisable to introduce a trial scheme whereby a candidate may request the presence of two examiners to conduct a test. Such a scheme will involve significant additional resources but will not help improve the present driving test system. A fair system for conducting driving tests in accordance with international practice is already in place. This system has evolved through close consultation with the Independent Commission Against Corruption.

170. The Commissioner for Transport has re-circulated the relevant departmental instruction for giving a prompt reply to public complaints to staff for strict compliance. Re-circulation of the instruction at regular intervals has been arranged.

**Case No. OCAC 45/94 : Unreasonable refusal to re-register a confiscated trailer with a chassis number different from the registered one despite that it was bought at a Government public auction.**

171. Please refer to Case No. OCAC 45/94 under Customs and Excise Department.

**Case No. OCAC 52/94 : Wasting public money in demolishing a rain shelter, which was newly built with District Board funds, for road improvement works, and failure to consult and seek consent from the concerned District Board beforehand.**

172. In line with COMAC's recommendation, an information paper on the demolition and relocation of the shelter in this complaint case was circulated on 31 August 1994 to the Traffic and Transport Committee of the District Board.

**Case No. OCAC 119/94 : Unreasonably failing the complainant in a driving test for light goods vehicles and failure to conduct a proper and impartial investigation of his subsequent complaint to the department.**

173. The complaint was not substantiated and COMAC did not recommend any follow up.

**Case No. OCAC 173/94 : Having wrongly failed the complainant in a driving test for public/private buses.**

174. The complaint was not substantiated and COMAC did not recommend any follow up.



**Case No. OCAC 476/94 : Failure to take effective actions to monitor the service of a Green Mini-bus (GMB) Route.**

175. The Commissioner for Transport has put into effect since early August 1995 an emergency communication system, together with a set of communication procedures, which enables GMB operators to report service disruption incidents to the Transport Department at any time of day. Letters were issued to all GMB operators requiring them to strictly follow the communication procedure. Action will be taken to include this new requirement in the Passenger Service Licence conditions.

## TREASURY

**Case No. OCAC 201/94 : Delay in demanding rates over six years in arrears.**

176. The Treasury reviewed the whole process of recovery of rates and has taken the following measures :-

(a) Recovery Procedures

The rates recovery procedures have been strengthened to ensure that prompt action is taken on all outstanding cases;

b) Revise write-off amount upward to bring it in line with inflation

The Rating and Valuation Department, which has taken over the responsibility of the Collector of Rates with effect from 1 July 1995, will review whether the \$200 threshold should be adjusted upwards. (Rates arrears, including those amounting to less than \$200, are not automatically written off. The \$200 threshold is only a yardstick for the Treasury to determine the extent to which recovery action should be instituted);

- (c) Include government's overhead, loss of interest, etc, in filing claims to the Small Claims Tribunal/Court

Under the Rating Ordinance, rates in arrears are already subject to a surcharge at 5% of the arrears and a further surcharge at 10%. Apart from serving as a penalty, the surcharge covers at least part of the overheads and loss of interest. These surcharges are included together with out-of-pocket expenses in the claims to the Small Claims Tribunal/Courts;

- (d) Explanatory notes to accompany demand notes and extend due dates

In long outstanding cases, there will be explanatory notes in the form of a letter to accompany the demand note to explain the background. The due date will be suitably extended to take into account the postal time.

## URBAN SERVICES DEPARTMENT

**Case No. OCAC 158/93 : Ineffective investigation of a complaint of water seepage in a private building and denying the existence of such a problem.**

177. Following COMAC's recommendation, the USD's Procedural Guide on Investigation of Water Seepage Cases has been revised in August 1994. A more senior officer will now be sent to double check and verify a Health Inspector's findings about water seepage complaints if the complainant holds a contradictory opinion.

**Case No. OCAC 36/94 : Selling invalid tickets for a public performance causing their holders much inconvenience and embarrassment when they were ordered to leave the venue.**

178. As recommended, a letter of apology was sent on 27 June 1994.

**Case No. OCAC 64/94 : Maladministration in the planning of the redevelopment of the Hong Kong Stadium leading to excessive noise being generated from pop concerts staged at the stadium.**

179. Please refer to Case No. OCAC 64/94 under Government Secretariat - Recreation and Culture Branch.

**Case No. OCAC 92/94 : Negative manner in handling complainant's complaint against a staff and failure to address his complaint on street sweeping carried out early in the morning.**

180. The Director of Urban Services accepted COMAC's recommendation. Written and oral advice have been provided to the cleansing contractors reminding them that work should be carried out without causing undue annoyance to the public. The department has also arranged routine and surprise checks to ensure the contractors carry out their work properly.

**Case No. OCAC 515/94 : Lack of response to a complaint about the food hygiene of a restaurant.**

181. The complaint was partially substantiated. A letter of apology was sent to the complainant on 10 May 1995. All staff have been reminded of the Departmental Guidelines on handling food complaints. The department has also completed its staffing review of the Duty Rooms and three additional posts have been created to man the Duty Rooms.

**WATER SUPPLIES DEPARTMENT**

**Case No. OCAC 73/94 : Overcharging complainant's account as a result of the department's reading the wrong water meter and unreasonably refusing to refund the overpaid water charges.**

182. This complaint involved two water meters for two separate flats of which the registered consumer, being the landlord, is a company. The complainant who is the tenant paid for the water consumed on one floor.

183. Subsequent to the settling of the undercharged amount by the registered consumer, overpayment was refunded to the complainant.

**Case No. OCAC 86/94 : Unreasonably levying a testing fee on the complainant on the ground that his water meter was tampered with notwithstanding that there was no evidence to support the damage was caused by him or his agent.**

184. As recommended, a fee of \$480.44 was refunded to the complainant.

185. Protective measures for water meters in the design of new housing estates was already an issue being studied by Housing Department and Water Supplies Department at the time the complaint was received. The provision of installing water meters in groups under the Hong Kong Waterworks Standard Requirements has subsequently been enhanced to mandate the housing of meters in meter rooms/boxes with effect from 1 April 1995.

186. In view of the numbers, it is not a practical nor economical arrangement to provide a meter box to protect each meter in existing housing estates. The frequency of such meters being tampered with also does not warrant such costly modification. The Director of Water Supplies will handle each case on its merits.

**Case No. OCAC 430/94 : Delay in processing an application for transfer of consumership of a water supply account**

187. The frontline staff of the department have been instructed to explain fully to consumers how "future date" change of consumership applications are processed. To further improve the communications with consumers in respect of "future date" applications, an interim reply is being sent to applicants informing them that their applications would be processed on that date.

188. The Director of Water Supplies considers that it is not cost-justified to revise the computerized water billing system to cater for "future date" change of consumership applications in view of the small number of such cases. An arrangement has instead been put into effect to bring up "future date" change of consumership applications one day before the effective date to allow sufficient time for processing.