

Summary of Investigation Report

Complaint against Seven Government Departments for Delay in Handling a Road Repair Works

The Complaint

The complainant noticed that there was a pothole on a footpath leading to a playground (“the Footpath”). The pothole turned into a pool of water when it rained. In April 2010, he lodged a complaint with the 1823 Call Centre under the Efficiency Unit (“EU”). The complaint was subsequently referred to the Highways Department (“Hy D”), the Lands Department (“Lands D”), the Drainage Services Department (“DSD”), the Leisure and Cultural Services Department (“LCSD”), the Home Affairs Department (“HAD”) and the Food and Environmental Hygiene Department (“FEHD”). However, the six departments denied repairs responsibility. Allegedly, Hy D once mentioned to him, “The Department was only responsible for named streets. The Footpath had not been named and was, therefore, not within Hy D’s jurisdiction. Since the Footpath served as an access leading only to a playground under LCSD, LCSD should be the responsible department”. FEHD allegedly refused to follow up the case because the pothole was filled with water, not refuse.

2. The complainant considered that the above departments had been passing the buck and the Call Centre, unfamiliar with the functions and responsibilities of the departments, was simply randomly referring his complaint to them. He, therefore, lodged a complaint with this Office.

The Events

3. In March 2009, Lands D received a complaint from a member of the public saying that the Footpath was always flooded after rain. The Department conducted a site inspection at once and confirmed the problem. In June 2009, Lands D notified LCSD that, according to the land grant provisions, LCSD is responsible for the repairs of the Footpath. Upon receipt of the notification, LCSD checked the map and found that the Footpath was outside the perimeter of the playground. The Department considered there to be insufficient evidence to prove that the Footpath had been included in the land allocated for the playground. To establish repairs responsibility for the Footpath, LCSD then sent a memorandum to Lands D in the same month asking for relevant documents. However, Lands D did not receive the memorandum. It later decided to discontinue following up the matter after site inspections in October 2009 and March 2010, during which no water pools were found on the Footpath.

4. In February 2010, the complainant complained to DSD about pools of water on the Footpath. DSD staff conducted a site inspection and identified the pothole on the Footpath, not drainage problems, to be the source of trouble. As such, it was not within DSD's purview. DSD then referred the complaint to Hy D and HAD. Both departments later responded and denied repairs responsibility. DSD then referred the case to Lands D on 13 April.

5. On 17 April, the complainant lodged a complaint with the Call Centre about the same problem on the same Footpath. Following internal guidelines, the Call Centre referred the case to Hy D for follow-up action. After a site inspection, Hy D confirmed that the Footpath was outside its responsibility of road maintenance. It then suggested the Call Centre to refer the case to Lands D. Hy D further pointed out that the complainant's case was similar in nature to another complaint (lodged by someone else) referred by the Call Centre on 13 April.

6. On 27 April, Lands D replied to the Call Centre, indicating that the Footpath was unallocated government land. It further noted that the Department, not being a works department, could not provide assistance. However, as street lighting on the Footpath was a joint responsibility for Hy D and HAD, it suggested that the Call Centre refer the case to these two departments for follow-up. The Call Centre took the case to the Lighting Division of Hy D and HAD on 28 April.

7. Afterwards, HAD replied to the Call Centre that as the Footpath led only to a temporary playground under LCSD, the case should be referred to LCSD. The Lighting Division of Hy D also said that the case was outside its purview. The Call Centre then referred the case to LCSD on 2 May.

8. On 3 May, the Call Centre requested that the liaison officers of Lands D, LCSD, HAD and Hy D follow up the case. On 14 May, LCSD responded and maintained that the Footpath was not included in the land allocated for the playground and, therefore, should fall outside its responsibility. It suggested that the case be referred to Lands D. On 15 May, the complainant telephoned the Call Centre and complained about serious flooding on the Footpath. The Call Centre then referred the case to DSD as a flooding complaint.

9. On 17 May, DSD sent an email to Hy D, HAD and Lands D urging for prompt action. It suggested that HAD carry out repairs on the Footpath. On 18 May, Hy D telephoned the Call Centre after another site inspection, reiterating that the location fell outside its repairs responsibility. HAD advised that the Call Centre should consider asking LCSD to take up repairs responsibility for the Footpath. Then on 1 June, LCSD told the Call Centre that the government land in the vicinity of the playground might be allocated for other uses in the future and the Footpath would lead to

other places in addition to the playground by then. It would, therefore, be inappropriate for LCSD to take over repairs responsibility for the Footpath.

10. On 7 June, the Principal Executive Officer of EU urged the complaints officers of Lands D, HAD and LCSD to intervene and handle the case. The following day, Lands D provided information on land grant provisions of the playground to LCSD and indicated that the department allocated the playground site should be responsible for repairs of the Footpath. On 9 June, LCSD asked the Call Centre to inform the complainant that it would liaise with the Architectural Services Department about repairs of the Footpath. The latter completed the repair works on 17 August upon LCSD's request.

11. Between February and August 2010, the complainant had telephoned the Call Centre many times to complain about pools of water on the Footpath and asked FEHD to clear them. On receipt of each of those referrals from the Call Centre, FEHD conducted site inspection and cleared away the water.

Our Findings and Comments

12. EU pointed out that in determining the responsible department and before making a referral, staff of the Call Centre would make reference to its internal guidelines and consider the information provided by the complainant as well as the views of relevant departments. This by no means implied that the Call Centre's referrals were made at random. The Complaint Handling Team of the Call Centre was tasked with case analysis and collation. Cases would be escalated to the management level of a department if warranted. However, our investigation revealed that although the case had already been escalated to a higher level for handling in accordance with established procedures, the various staff members of the Call Centre who handled the complainant's repeated complaints failed to check case records carefully and were not aware that the Call Centre Manager had taken the case to the management of the departments concerned. As a result, the same complaint by the complainant was given different file numbers and multiple internal referrals were made. Besides, the staff members concerned did not study the information in the database and only made guesses on which department should be responsible based on information provided by the complainant and other circumstantial information. Moreover, the Complaint Handling Team failed to discharge its function of collating and analysing cases for prompt resolution of the complaint, thus giving the complainant an impression that the Call Centre was randomly referring his case. The complaint against EU was, therefore, **substantiated**.

13. **Lands D** indicated that two site inspections had been conducted in October 2009 and March 2010 respectively regarding the complaint received in March 2009. Since no flooding was

found on the Footpath, it assumed that LCSD had fixed the problem and therefore closed the case. Upon receipt of referral of the complainant's case by the Call Centre in April 2010, it immediately checked the land status plan but it contained no information as to which department should take up the repairs responsibility. Judging from factors such as the location, outlook and construction materials of the Footpath, Lands D considered that the Footpath might possibly be constructed by HAD and Hy D and therefore suggested that the Call Centre make an enquiry with those two departments. Later on, it re-examined the land grant documents concerning the Footpath and confirmed that the construction and subsequent repairs of the Footpath were LCSD's responsibilities. Lands D asserted that it had been cooperating with the Call Centre in identifying the responsible department. As for the checking of land information, District Lands Offices would not have all the files on non-public works of Government departments. Therefore, the onus was on individual departments to check their own files and confirm if they are the departments responsible for the repairs.

14. Our investigation revealed that Lands D had referred the case to LCSD in 2009 but hastily closed the file before confirming with LCSD whether the repair works had been completed. The two site inspections by Lands D mentioned above were not conducted on rainy days and it simply would not find water pools on the Footpath. Initially, Lands D was not aware that the 2009 case was related to the complaint received in 2010. But when it later became aware of that and merged the two files, the staff concerned failed to pay attention to the land grant information about the Footpath available in the 2009 case file. It was not until June 2010 that Lands D presented to LCSD the relevant land grant information and confirmed that LCSD was responsible for the repairs. Moreover, before fully grasping the case, Lands D suggested that the Call Centre should refer the case to Hy D and HAD, notwithstanding both departments had previously denied repairs responsibility. That had aggravated the shifting of responsibility among departments. We appreciated that the District Lands Office under Lands D might not possess all information on repair works undertaken by other Government departments but considered that Lands D being the department managing land matters should have checked the relevant land records as soon as practicable to clarify the demarcation of responsibilities. Unfortunately, the slipshod handling by Lands D staff had caused delay in the repairs of the Footpath. The complaint against Lands D was, therefore, **substantiated**.

15. **LCSD** admitted that its staff had not followed up the matter after having sought further information from Lands D on receipt of its notification in 2009, due to heavy workload. It also admitted that its staff had inadequate understanding and knowledge of the land grant provisions and failed to check carefully the land grant records while handling this complaint. The staff wrongly believed that the Footpath was outside the purview of LCSD because it was not included in the allocation plan of the playground. Consequently, there was delay in the repairs of the Footpath. We considered that this complaint was mainly caused by LCSD's misunderstanding of the land

grant provisions and its failure to promptly follow up with the notification from Lands D in 2009 and clarify the land grant provisions. Even if LCSD considered the repair works as outside its purview, it should still have followed up the case in the interests of the playground users because the Footpath led only to the playground. The complaint against LCSD was, therefore, **substantiated**.

16. On 26 February 2010, **DSD** learned that the Footpath was not within the purview of Hy D. It only followed up the case after a month or so because the case was inadvertently set aside due to staff transfer. Under the cross-departmental complaints handling mechanism of works departments, DSD, as the “complaint-receiving department”, should try to identify the “maintenance department”. The matter could have been settled earlier had DSD promptly followed it up. It should thus be partly responsible for the delay in repairs of the Footpath. The complaint against DSD was, therefore, **partially substantiated**.

17. Despite this, DSD had offered to take up the repairs of the Footpath before the responsible department was identified. DSD should be commended for this and other departments should learn from such exemplary attitude.

18. **HAD** explained that in accordance with established guidelines, it would not provide services that should be provided by other Government departments to avoid duplication and wasting of resources. As the local District Office was not responsible for the repairs of the Footpath which was in fact the only access to the playground under LCSD, HAD suggested that the Call Centre refer the case to LCSD. We considered that as far as delay in the repairs of the Footpath was concerned, HAD should not bear any responsibility. The complaint against HAD was, therefore, **unsubstantiated**. Nevertheless, we found that HAD had not attempted to contact the relevant departments to work out a solution after learning from the Call Centre on 1 June that LCSD would not follow up the repairs of the Footpath. When the Principal Executive Officer of EU escalated the case on 9 June to the management level and sought assistance from HAD and other departments, HAD made no response at all. That was contrary to the function that “district problems are resolved promptly through inter-departmental consultation and co-operation” as advocated by HAD. There was a lack of initiative and proactiveness on the part of HAD in handling of this case.

19. **Hy D** had conducted several site inspections regarding the complaint and it was just trying to be cautious. According to the complainant, Hy D staff had remarked that the department would only deal with “named streets” and that “the Footpath was a dedicated access to the playground under LCSD and should thus be managed by LCSD”. Hy D clarified that it would arrange for repair works for any roads within its purview including unnamed streets. It denied that its staff had made the above remark to the complainant. Our investigation discovered that the

inaccurate message was conveyed to the complainant by the Call Centre as its staff misunderstood the responsibility of Hy D. Overall, the complaint against Hy D was **unsubstantiated**.

20. **FEHD** had performed its duties and followed established procedures to clear the pools of water on the Footpath. The Department denied the allegation that its staff had refused to deal with the situation on the grounds that those were pools of water rather than refuse. In the absence of independent evidence, we would not comment on the allegation. On the whole, the complaint against FEHD was **unsubstantiated**.

Recommendations

21. The Ombudsman made the following recommendations to EU, Lands D and LCSD on improvement of services:

For the Call Centre under EU

- (1) review and improve its complaint handling procedures and storage system of complaint information to ensure that staff could promptly identify previously received calls and related complaints;
- (2) staff should check with callers to ensure repeated complaints are identified early and to avoid giving multiple file numbers for one case;
- (3) staff should be updated on any new information and latest development when the case has been escalated to the management level for handling;
- (4) enhance staff's skills in handling cross-departmental complaints;
- (5) review its internal referral mechanism to avoid misleading the public as well as saving them the trouble of repeating the same facts
- (6) improve the workflow of the Complaint Handling Team in the collation of related cases;

For Lands D

- (7) assist LCSD in gathering information on the land grant provisions and

plans of gazetted recreation areas;

- (8) review and enhance the current file management system and procedures to enable more efficient use of file records by staff;
- (9) strengthen staff training to cultivate proactiveness and prudence among staff in handling complaints;

For LCSD

- (10) conduct regular reviews on the improvement measures implemented in response to this complaint, including checking the information on the land grant provisions and plans of recreation areas, strengthening staff supervision and setting up of a database for land records of recreation areas; and
- (11) continue to seek assistance from Lands D in the gathering of information on the land grant provisions and plans of gazetted recreation areas.

22. EU, LCSD and Lands D accepted the above recommendations and undertook to implement them.

The Ombudsman's Conclusion

23. The problem of water pools arising from pothole on road surface remained unresolved for months not only because of unclear demarcation of responsibilities and negligence of staff, but also due to the compartmental mentality of the government departments involved. Those departments had failed to attend to the needs of the public. Had they taken the initiative to do more than their duties required them of, the outcome would have been much different. In this case, even though some of the departments involved had followed the internal guidelines and performed their duties, the complainant had been given the impression that the coordination among government departments was poor and the departments were shifting their responsibilities onto each other without making serious effort to resolve the problem. In this context, the Government's image was tarnished.

Office of The Ombudsman
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